

5-18-88
Vol. 53 No. 96
Pages 17683-17910

Federal Register

Wednesday
May 18, 1988

Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 26; at 9:00 a.m.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC

RESERVATIONS: Laurice Clark, 202-523-3517

KANSAS CITY, MO

WHEN: June 10; at 9:00 a.m.

WHERE: Room 147-148,
Federal Building,
601 East 12th Street,
Kansas City, MO

RESERVATIONS: Call the St. Louis Federal Information Center,

Missouri: 1-800-392-7711

Kansas: 1-800-432-2934

NEW YORK, NY

WHEN: June 13; at 1:00 p.m.

WHERE: Room 305C,
26 Federal Plaza,
New York, NY

RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212-264-4810.

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Title 3—

Proclamation 5824 of May 16, 1988

The President

Flag Day and National Flag Week, 1988

By the President of the United States of America

A Proclamation

Two hundred and eleven years have now gone by since that June day in 1777 when the Continental Congress adopted a flag for the United States of America, then a brand-new Nation fighting for its independence and for the novel notion that individual liberty was everyone's God-given birthright. The banner adopted then, the beautiful Stars and Stripes, was soon raised by a rebel hand for all the world to see. Our task and our glory as Americans is to keep the flag flying high, because freedom waves in its broad stripes and bright stars.

The preservation of freedom is ours to fulfill for our children and for the hope of mankind, just as our forebears fulfilled it for us in years of peace or peril. We will succeed as our countrymen did before us, but only if we make their spirit our own; we must always revere, just as deeply as did they, the Red, White, and Blue—our battle-scarred flag. The heroism, service, and sacrifice of those who have followed Old Glory on many a hard-fought field and at many a guardpost of peace make this our solemn trust. We will keep faith with them and with generations yet unborn just as long as we can sing of flag and freedom as wholeheartedly as did Francis Scott Key in the last stanza of our National Anthem, "The Star-Spangled Banner":

Oh! thus be it ever, when freemen shall stand
Between their loved home and the war's desolation!
Blest with victory and peace, may the heav'n rescued land
Praise the Power that hath made and preserved us a nation.
Then conquer we must, when our cause it is just,
And this be our motto: "In God is our trust."
And the star-spangled banner in triumph shall wave
O'er the land of the free and the home of the brave.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue an annual proclamation calling for its observance and for the display of the flag of the United States on all government buildings. The Congress also requested the President, by joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate June 14, 1988, as Flag Day and the week beginning June 12 as National Flag Week, and I direct the appropriate officials of the government to display the flag of the United States on all government buildings during that week. I urge all Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

I also urge the American people to celebrate those days from Flag Day through Independence Day, set aside by the Congress as a time to honor America (89 Stat. 211), by having public gatherings and activities in which they can honor their country in an appropriate manner, especially by ceremonies in which all

renew their dedication by publicly reciting the Pledge of Allegiance to the Flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-11321]

Filed 5-17-88; 10:18 am]

Billing code 3195-01-M

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1620

Thrift Savings Plan; Eligibility

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Amendment to interim rule.

SUMMARY: On March 28, 1988, the Federal Retirement Thrift Investment Board published interim regulations governing the eligibility of certain union employees to participate in the Thrift Savings Plan on a tax-deferred basis. These regulations provided that employees would have an opportunity to file an initial election form with his or her employing authority at any time before the expiration of 60 days from the publication date of the regulations. Because many of these union employees did not receive a timely notice of these regulations, the Executive Director is extending the initial election period to run from the publication date of the regulations (March 28, 1988) through June 30, 1988.

EFFECTIVE DATE: This amendment is effective May 18, 1988.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, (202) 523-6367.

SUPPLEMENTARY INFORMATION:

List of Subjects in 5 CFR Part 1620

Employee benefit plans, Government employees, Retirement, Pensions.

Accordingly, Chapter VI of Title 5 of the Code of Federal Regulations is amended as follows:

PART 1620—CONTINUATION OF ELIGIBILITY

1. The authority citation for Part 1620 continues to read as follows:

Authority: 5 U.S.C. 8474, Pub. L. 100-238, Pub. L. 99-591.

§ 1620.34 [Amended]

2. Section 1620.34 is amended by revising the first sentence to read as follows: "Employees who are participating in the Civil Service Retirement System or the Federal Employees' Retirement System must be permitted to file an election form with the employing authority identifying the amount, if any, of their contribution to the Thrift Savings Plan at any time from the publication date of these regulations through June 30, 1988. * * *"

Dated: May 12, 1988.

Francis X. Cavanaugh,
Executive Director.

[FR Doc. 88-11045 Filed 5-17-88; 8:45 am]

BILLING CODE 6760-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 510

Availability of Information

AGENCY: Agricultural Research Service, USDA.

ACTION: Final rule.

SUMMARY: This document promulgates regulations of the Agricultural Research Service (ARS), regarding the availability of information to the public in accordance with the Freedom of Information Act (FOIA). It supplements the Department's regulations at Part 1, Subpart A of this title.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT: Stasia A.M. Hutchison, National FOIA Coordinator, Agricultural Research Service, Room 331B, Building 005, Beltsville Agricultural Research Center, Beltsville, Maryland 20705; (301) 344-3928.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the *Federal Register*. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this rule will not cause a significant economic impact or other substantial effect on small entities.

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Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., do not apply. The following actions were taken: Sections 510.1, 510.4, and 510.5 have been amended to update section references; and §§ 510.2 and 510.4 have been amended to update the location of the National FOIA Coordinator.

List of Subjects in 7 CFR Part 510

Freedom of information.

Accordingly, 7 CFR Part 510 is revised to read as follows:

PART 510—PUBLIC INFORMATION

Sec.

- 510.1 General statement.
- 510.2 Public inspection and copying.
- 510.3 Index.
- 510.4 Requests for records.
- 510.5 Appeals.

Authority: 5 U.S.C. 301, 552; 7 CFR Part 1, Subpart A and Appendix A thereto.

§ 510.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture in Part 1, Subpart A of this title and Appendix A thereto, implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this Part, govern the availability of records of the Agricultural Research Service (ARS) to the public.

§ 510.2 Public inspection and copying.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by the ARS at the following office: ARS Information Staff, Room 331B, Building 005, BARC-West, Beltsville, Maryland 20705; (301) 344-3928. Office hours are 8:00 a.m. to 4:30 p.m.

§ 510.3 Index.

In compliance with 5 U.S.C. 552(a)(2), contact the location cited in 510.2 for any available ARS index.

§ 510.4 Requests for records.

Requests for records of the ARS under 5 U.S.C. 552(a)(3) shall be made in accordance with § 1.6 of this title and submitted to the national FOIA coordinator at the following address: ARS Information Staff, Room 331B, Building 005, BARC-West, Beltsville,

Maryland 20705; (301) 344-3928. The national FOIA coordinator is delegated authority to make determinations regarding such requests in accordance with § 1.3(a)(3) of this title.

§ 510.5 Appeals.

Any person whose request is denied shall have the right to appeal such denial. Appeals shall be made in accordance with § 1.6(e) of this title and should be addressed as follows:

Administrator, Agricultural Research Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, this 13th day of May, 1988.

M.E. Carter,

Acting Administrator, Agricultural Research Service.

[FR Doc. 88-11160 Filed 5-17-88; 8:45 am]

BILLING CODE 3410-03-M

Agricultural Marketing Service

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: For the months of April through August 1988 this action suspends the requirement that a cooperative association deliver 51 percent or more of the producer milk of members of the association to pool distributing plants of other handlers in order to qualify a supply plant operated by the cooperative association for pooling under the Nebraska-Western Iowa order. The action was requested by a cooperative association that represents producers who supply milk for the market. The action is necessary to assure that the association's member dairy farmers who have regularly supplied the market's fluid needs will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued April 11, 1988; published April 14, 1988 (53 FR 12424).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who regularly have supplied the market's fluid needs will continue to have their milk pooled and priced under the order during the months of April through August 1988 and thereby receive the benefits that accrue from such pricing. This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Notice of proposed rulemaking was published in the *Federal Register* on April 14, 1988 (53 FR 12424) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing views were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of April through August 1988 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1065.7(c), the words "51 percent or more of the".

Statement of Consideration

This action suspends, for the months of April through August 1988, the requirement that a cooperative association deliver 51 percent or more of the producer milk of members of the association to pool distributing plants of other handlers in order to qualify a supply plant operated by the cooperative association for pooling. The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents a large number of the market's producers.

The cooperative stated that the suspension is necessary because the percentage of the cooperative's member milk production shipped to distributing plants is expected to fall below 51 percent. During 1987, the cooperative

stated, producer milk pooled on the Nebraska-Western Iowa order increased 5 percent over the amount pooled under the order during 1986. At the same time, the cooperative observed, producer milk used in Class I declined by 2 percent. Mid-Am stated that these trends have continued into 1988, with levels of producer milk pooled under the order during the months of January and February 1988 increasing by 13 and 11 percent, respectively, from the levels of the same months of 1987.

Mid-Am predicted that the present trends in milk production and Class I use, combined with the decrease in Class I sales that will accompany the closing of schools for the summer, will cause the percentage of the cooperative's milk pooled under the Nebraska-Western Iowa order and shipped to distributing plants to fall below 51 percent during the months for which the suspension is to be effective. Consequently, Mid-Am expects the current marketing situation to create difficulties for the cooperative in maintaining the pool status of its member producers who historically have supplied the fluid needs of the Nebraska-Western Iowa market.

As alternatives to depooling some milk of its member producers, the cooperative would have to attempt to pool Nebraska-Western Iowa producer milk on another Federal order or ship milk to distributing plants where the milk would be received, loaded back into the truck and shipped to a manufacturing plant. Either alternative would require the cooperative to move milk in an uneconomic and inefficient manner solely to maintain the pool status of producers who historically have supplied the fluid needs of the Nebraska-Western Iowa marketing area.

In comments filed in support of the suspension, Mid-Am stated that milk production in the Nebraska-Western Iowa marketing area is at a significantly higher level during 1988 than it was during the same months of 1987 and 1986, while Class I sales are weaker. Since suspension of the 51-percent shipping requirement was necessary in both of the two immediately preceding years, when marketing conditions were more favorable for meeting the shipping requirements, the cooperative urged that the provision be suspended again.

No comments opposing the proposed action were received.

Milk production in the Nebraska-Western Iowa market during the first three months of 1988 has exceeded the 1987 level by 12.7 percent. Given current marketing conditions, more than 51 percent of the available milk supplies

apparently will have to be shipped to manufacturing plants for surplus use. In view of these circumstances, it is concluded that the 51 percent delivery requirement for cooperative-operated supply plants pooled under the Nebraska-Western Iowa milk order should be suspended for the months of April through August 1988 to ensure the orderly marketing of milk supplies. The suspension will prevent uneconomic and inefficient movements of milk solely to maintain the pool status of producers who historically have supplied the fluid milk needs of the Nebraska-Western Iowa marketing area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that it will ensure that dairy farmers who are supplying the market's fluid needs will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the suspension. No comments opposing this action were received.

Therefore, good cause exists for making this order effective upon publication in the *Federal Register*.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of § 1065.7(c) of the Nebraska-Western Iowa order are hereby suspended for the months of April through August 1988, as follows:

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1065.7 [Amended]

2. In § 1065.7(c), the words "51 percent or more of the" are suspended for the months of April through August 1988.

Signed at Washington, DC, on May 13, 1988.

Kenneth A. Gilles,
Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 88-11158 Filed 5-17-88; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1903, 1910, 1943, 1944, 1951, 1962, and 1965

Form FmHA 1944-3, "Budget and/or Financial Statement"

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to provide for a change in administrative instructions to several CFR parts. This action is necessary because of changes in the format, name, and number of the "Household Financial Statement and Budget" form. The intended effect of the action is to make the form easier to complete. The Budget part of the form can now be completed and used independently of the Financial Statement. The name change is needed to accurately reflect the order of the new format.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT: Dale Alling, Senior Loan Specialist, Servicing Branch, Single Family Housing Servicing and Property Management Division, FmHA, USDA, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. The amended regulation changes the name and number of Form FmHA 431-3, "Household Financial Statement and Budget," to Form FmHA 1944-3, "Budget and/or Financial Statement." This form is used for internal purposes only in determining the repayment ability of applicants and borrowers. Therefore, this action is not published for proposed rulemaking since it involves only internal Agency

management and publication for comment is unnecessary.

This action affects the following programs listed in the catalog of Federal Domestic Assistance.

10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.417 Very Low Income Housing Repair
Loans and Grants

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983).

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." FmHA has determined that this final action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environment Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects for 7 CFR Parts 1903, 1910, 1943, 1944, 1951, 1962 and 1965

Loan Programs—Agriculture, Rural areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citations for the Parts 1903, 1910, 1943, 1944, 1951, 1962 and 1965 continue to read as follows:

PART 1903—[AMENDED]

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

PART 1910—[AMENDED]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

PART 1943—[AMENDED]

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

PART 1944—[AMENDED]

Authority: 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

PART 1951—[AMENDED]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480, 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

PART 1962—[AMENDED]

Authority: 7 U.S.C. 1989, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

PART 1965—[AMENDED]

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Chapter XVIII—[Amended]

2. 7 CFR Chapter XVIII is amended by removing the words "431-3, Household Financial Statement and Budget," and inserting in their place, the words "1944-3, Budget and/or Financial Statement," in the following places:

- (a) Part 1903, Subpart A, § 1903.9 (a)
- (b) Part 1910, Subpart A, § 1910.3 (b)(2)
- (c) Part 1943, Subpart C, § 1943.132 (a)
- (d) Part 1944, Subpart A, § 1944.4 (c), § 1944.26 (a) and § 1944.30 (a)
- (e) Part 1944, Subpart J, § 1944.458 (a)(8)
- (f) Part 1951, Subpart F, § 1951.261 (e)(2)(i)
- (g) Part 1951, Subpart G, § 1951.312 (d)
- (h) Part 1965, Subpart A, § 1965.12 (f) and Exhibit C

3. 7 CFR Chapter XVIII is amended by removing the words "Form FmHA 431-3" and inserting in their place, the words "Form FmHA 1944-3" in the following places:

- (a) Part 1910, Subpart A, § 1910.7 (a)
- (b) Part 1944, Subpart A, § 1944.26 (a)(2), (e) and (f)(2)
- (c) Part 1944, Subpart J, § 1944.458 (a)(8)
- (d) Part 1951, Subpart G, § 1951.312 (e)(3), (e)(3)(i) and § 1951.313 (b)
- (e) Part 1962, Subpart A, § 1962.34 (f)(7)
- (f) Part 1965, Subpart A, § 1965.27 (g)(4)

§ 1944.467 [Amended]

4. In § 1944.467, introductory paragraph (b) is amended by changing the title "Family budget form" to "Budget form."

5. In § 1944.467, introductory paragraph (b)(1) is amended by changing the reference in the first sentence from "Form FmHA 431-3, 'Budget and/or Financial Statement'." The second sentence is amended by changing the words "Family budgets" to "Budgets."

PART 1965—REAL PROPERTY**Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases**

6. Section 1965.27 is amended by revising paragraph (g)(4) to read as follows:

§ 1965.27 Transfer of real estate security.

(g) * * *

(4) *Farm and Home plans and financial statements.* When the transfer involves an ineligible transferee, Form FmHA 1944-3 or FmHA 431-2 will be used to the extent necessary to determine the debt paying ability of the transferee. Another plan of operation

acceptable to FmHA may be used in lieu of Form FmHA 431-2. When an assumption will be of less than the amount of the indebtedness and a release of liability is involved, a current financial and income statement of the transferor will be obtained on Forms FmHA 1944-3 or FmHA 431-2, or other plan of operation acceptable to FmHA.

* * * * *

Dated: October 2, 1987

Vance L. Clark,
Administrator, Farmers Home
Administration.

[FR Doc. 88-11090 Filed 5-17-88; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION**10 CFR Parts 2, 9, and 20****Minor Corrective Amendments**

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to return information that was inadvertently omitted when a final rule was published in December 1987 and to make nonnomenclature changes that reflect the 1987 NRC consolidation and were overlooked when a final rule was published in August 1987. These amendments are necessary to inform the public and NRC licensees of the corrections.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: On December 31, 1987 (52 FR 49350), the NRC published a final rule revising its Freedom of Information Act regulations in order to implement the Freedom of Information Reform Act of 1986. One of the amendatory instructions indicated that in § 2.790, paragraphs (a)(7), (b)(1)(ii), and (d) were to be revised. For paragraph (d), the instruction should have read that the introductory text of paragraph (d) was revised in order to retain paragraphs (1) and (2) which were inadvertently dropped when the final rule was published. On August 21, 1987 (52 FR 31601), the NRC published a final rule that amended several 10 CFR Parts to reflect the consolidation of the agency. Overlooked were several places

in the regulations where the nomenclature changes should have been made. These amendments correct these oversights.

Because these amendments deal with agency practice and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). Good cause exists to dispense with the usual 30-day delay in the effective date, because these amendments are of a minor and administrative nature.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 2, 9, and 20.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 2.790, and paragraph (d) is revised to read as follows:

§ 2.790 Public inspections, exemptions, requests for withholding.

(d) The following information shall be deemed to be commercial or financial information within the meaning of § 9.17(a)(4) of this chapter and shall be subject to disclosure only in accordance

with the provisions of § 9.19 of this chapter.

(1) Correspondence and reports to or from the NRC which contain information or records concerning a licensee's or applicant's physical protection or material control and accounting program for special nuclear material not otherwise designated as Safeguards Information or classified as National Security Information or Restricted Data.

(2) Information submitted in confidence to the Commission by a foreign source.

PART 9—PUBLIC RECORDS

3. The authority citation for Part 9 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 9.60 [Amended]

4. In § 9.60, paragraph (a), after the words "Director, Office of Administration", add the words "and Resources Management".

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

5. The authority citation for Part 20 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 20.103 [Amended]

6. In § 20.103, paragraph (g), remove the word "Director", and add in its place the words "Regional Administrator".

§ 20.311 [Amended]

7. In § 20.311, paragraph (g)(3), remove the word "Director", and add in its place the words "Regional Administrator".

Dated at Rockville, Maryland, this 6th day of May 1988.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 88-11113 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document corrects a previous *Federal Register* document, FR Doc. 88-9302 (List of Marginable OTC Stocks), which was published at page 15195 of the issue for Thursday, April 28, 1988, to be effective May 9, 1988.

FOR FURTHER INFORMATION CONTACT: Peggy Wolfrrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Based upon corrected information received from the National Association of Securities Dealers, the name of Holiday RV Superstores, Inc., \$01 par common was spelled incorrectly when it was added to the List.

Accordingly, pursuant to 12 CFR 207.2(i)(3) and 207.2(k) (Regulation G), 12 CFR 220.2(o)(4) and 220.2(s) (Regulation T), and 12 CFR 221.2(h)(3) and 221.2(j) (Regulation U), the entry for "Holiday RV Superstars, Inc." is changed to "Holiday RV Superstores, Inc." in the "Additions to the List" in the second column on page 15197.

By order of the Board of Governors of the Federal Reserve System acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), May 12, 1988.

William W. Wiles,
Secretary of the Board.

[FR Doc. 88-11073 Filed 5-17-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Number 88-ACE-04]

Cancellation of Transition Area; Spirit Lake, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to cancel the transition area at Spirit Lake, Iowa. The nondirectional radio beacon (NDB) at Spirit Lake, Iowa, has been decommissioned, thereby canceling the instrument approach procedure based on this navigational aid. Accordingly, the transition area is no longer required.

EFFECTIVE DATE: 0901 u.t.c., October 20, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri, 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to cancel the transition area at Spirit Lake, Iowa. The NDB at Spirit Lake, Iowa, was decommissioned during 1987. That action canceled the instrument approach procedure predicated on this navigational aid. Accordingly, the Spirit Lake transition area is no longer required and action is taken herein to cancel it. Since the instrument approach procedure has been canceled, this action is one in which the public would not be particularly interested. Therefore, notice and public procedure hereon, under 5 U.S.C. 553(b), are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Spirit Lake, Iowa [Removed]

Issued in Kansas City, Missouri, on May 2, 1988.

Paul E. Marchbanks,

Acting Manager, Air Traffic Division.

[FR Doc. 88-11049 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ACE-01]

Cancellation of Control Zone—Russell, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to cancel the control zone at Russell, Kansas. This action was requested by the airport manager, since the Flight Service Station at Russell, Kansas, is scheduled to be closed July 2, 1988.

EFFECTIVE DATE: 0901 UTC, October 20, 1988.

FOR FURTHER INFORMATION CONTACT: Dale Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION: Since the Russell, Kansas, Flight Service Station is scheduled to be closed July 2, 1988, the airport manager at Russell, Kansas, has requested that the control zone be canceled. Action is taken herein to cancel said control zone.

Discussion of Comments

On page 6161 of the Federal Register dated March 1, 1988, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to cancel the control zone at Russell, Kansas. (53 FR 6161.) Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No responses were received as a result of the Notice of Proposed Rulemaking.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854, 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. By amending § 71.171 as follows:

Russell, KS [Removed]

Issued in Kansas City, Missouri, on May 2, 1988.

Paul E. Marchbanks,

Acting Manager, Air Traffic Division.

[FR Doc. 88-11063 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE**International Trade Administration****15 CFR Part 399**

[Docket No. 80347-8047]

Revisions to the Export Administration Regulations Based on COCOM Review; Electric Furnaces

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends Export Control Commodity Number (ECCN) 1203A on the CCL by imposing a control on vacuum furnaces capable of operating with protective atmospheres. This amendment has resulted from a review of strategic controls maintained by the U.S. and certain allied countries

through the Coordinating Committee (COCOM). Such multilateral controls restrict the availability of strategic items to controlled countries. With the concurrence of the Department of Defense, the Department of Commerce has determined that this amendment to the CCL is necessary to protect U.S. national security interests.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT:

For questions of a technical nature on electric furnaces (ECCN 1203), call Surendra Dhir, Capital Goods Technology Center, Bureau of Export Administration, Telephone: (202) 377-8550.

SUPPLEMENTARY INFORMATION:**Saving Clause**

Shipments of items removed from general license authorizations as a result of this regulation that were on dock for lading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before (two weeks after date of publication) may be exported under the general license provisions up to and including (four weeks after date of publication). Any such items not actually exported before midnight (four weeks after date of publication) require a validated export license.

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule also is exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule implements regulatory changes based on COCOM review. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule mentions a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0625-0001.

5. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to: Joan Maguire, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 399

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 399 of the Export Administration Regulations (15 CFR Parts 368 through 399) is amended as follows:

PART 399—[AMENDED]

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757; July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

Supplement No. 1 to § 399.1 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power Generating Equipment), ECCN 1203A is amended as follows:

A. By revising the heading to the entry and to the "List of Equipment Controlled by ECCN 1203A" to read as set forth below;

B. By removing the words "[See also ECCNs 1080A and 1301A]" from the NOTE following paragraph (c)(3) and by adding those words to the end of the entry;

C. By redesignating the NOTE at the end of the entry as 1; and

D. By adding a new NOTE 2 to read as follows:

1203A Electric furnaces, specially designed components and controls therefor.

* * * * *

List of Electric Furnaces Controlled by ECCN 1203A

* * * * *

(d) * * *

(2) * * *

Note 1: This ECCN does not control susceptors * * *

Note 2: This ECCN also covers vacuum furnaces capable of operating with protective atmospheres.

(See also ECCNs 1080A and 1301A.)

Dated: May 13, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-11101 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DT-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Reparation Proceedings; Date of Reparation Order; Filing of Double Bond in Court of Appeals

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: Under section 14(e) of the Commodity Exchange Act, 7 U.S.C. 18(e), litigants who wish to file a petition for Court of Appeals review of a reparation order issued by the Commodity Futures Trading Commission ("Commission") must file a double bond within 30 days of "the date of the reparation order." The Commission has adopted final Rule 12.406(d) to clarify that the 30-day period for filing the bond runs from the date that the Commission's order is received by the Commission's Proceedings Clerk, a date that is routinely stamped on the first page of the order.

EFFECTIVE DATE: New Rule 12.406(d) becomes effective June 2, 1988.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Curt Bohling, Office of General Counsel,

Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, DC 20581, Telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: Section 14(e) of the Commodity Exchange Act, 7 U.S.C. 18(e), specifies the procedure for obtaining review in the United States Court of Appeals of a reparation order issued by the Commission. That section provides, among other things, that a reparation appeal

shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail.

On October 30, 1987, the Commission proposed an interpretative rule to clarify the meaning of the phrase "the date of the reparation order." 52 FR 41733 (Oct. 30, 1987). The proposed rule provided that the 30-day period for filing the bond runs from the date that the Commission's order is received by the Commission's Proceedings Clerk, a date that is routinely stamped on the first page of the order. The Commission invited interested persons to comment on the proposed rule, but no comments have been received.

The Commission proposed the interpretative rule to provide a standard, easily identifiable, measuring date for the filing of a Section 14(e) bond. A number of decisions by United States Courts of Appeals have demonstrated the need for such a standard. The United States Court of Appeals for the District of Columbia Circuit has held that the time for filing the Section 14(e) bond "must be construed as both jurisdictional and unalterable." *Kessenich v. CFTC*, 684 F.2d 88, 93 (D.C. Cir. 1982). Likewise, the United States Court of Appeals for the Ninth Circuit has recently stated that "the timely filing of [the Section 14(e)] bond is a prerequisite for appellate jurisdiction." *Chicago Commodities, Inc. v. CFTC*, 811 F.2d 1262, 1263 (9th Cir. 1987). Should a reparations litigant miscompute the 30-day period for filing the jurisdictional Section 14(e) bond, his petition for review is subject to dismissal by the Court of Appeals. See, e.g., *Clayton Brokerage Co. v. Bunzel*, 820 F.2d 1459 (9th Cir. 1987) ("Bunzel").

As the *Bunzel* decision illustrates, the phrase "the date of the reparation order" as used in Section 14(e) may be subject to more than one interpretation. The *Bunzel* court held that, pursuant to

the terms of the Commission's order in that particular case, "the date of the reparation order" was "the date that the order * * * was served." 820 F.2d at 1462. Since the date of service of the order was not obvious on the face of the order, the court required the Commission to supplement the record with evidence concerning the date of service. Upon reviewing this evidence, the Court determined that the order had been served 31 days before the petitioners filed their Section 14(e) bond. The Court therefore dismissed the petition for review.

To avoid these procedural questions for litigants and to provide certainty as to the measuring date for the filing of the jurisdictional bond, the Commission has adopted new Rule 12.406(d) as proposed. The Rule defines "the date of the reparation order" in Section 14(e) as the date on which the order is filed with the Commission's Proceedings Clerk. This date is routinely stamped on the first page of the Commission's opinion and order or order of summary affirmance. Thus, parties receiving a Commission reparation order will know with certainty the date upon which the 30-day period begins to run.

This rule is a procedural one. See 5 U.S.C. 552(a)(1)(c). Consequently, the Commission has determined to make the rule effective 15 days after its publication in the Federal Register. See 5 U.S.C. 553(d).

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the economic impact of proposed rule changes on small business entities. The rule proposed here would not affect the amount of the bond required to be filed in order to obtain judicial review of a Commission reparation order and thus would not have any economic impact on small business entities. Accordingly, the Chairman, on behalf of the Commission, certifies that the rule adopted here will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity futures, Reparations.

PART 12—[AMENDED]

For the reasons set forth in the preamble, the Commission amends Title 17, Part 12 of the Code of Federal Regulations as follows:

1. The authority citation for Part 12 is revised to read as follows:

Authority: 7 U.S.C. 4a(j), 12a(5), 18(b) (1982).

2. Section 12.406 is amended by adding a new paragraph (d) as follows:

§ 12.406 Final decision of the Commission

(d) *Date of the reparation order.* For purposes of computing the 30-day period for filing the appeal bond required by section 14(e) of the Act, 7 U.S.C. 18(e), "the date of the reparation order" shall be the date that the Commission's opinion and order (or order of summary affirmance, as the case may be) is filed with the Proceedings Clerk. This date shall be reflected by the date stamp on the first page of the Commission's order.

Issued in Washington, DC on May 11, 1988 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-11091 Filed 5-17-88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1309

[Docket No. 82-18; Notice 12]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, by extending from three to five, the number of fiscal years in which a State may receive alcohol incentive grants.

This Final Rule revises portions of the agency's regulation implementing section 408 of the Highway Safety Act of 1966, relating to supplemental alcohol incentive grants, to reflect this statutory change. Other portions of the regulation were amended in a final rule published in the *Federal Register* on July 22, 1987 (52 FR 27614).

DATE: The amendments made by this final rule are effective on May 18, 1988.

FOR FURTHER INFORMATION CONTACT:

Mr. George Reagle, Associate Administrator for Traffic Safety Programs, NTS-01, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC

20590, telephone (202) 366-1755; or Ms. Heidi L. Coleman, Office of Chief Counsel, NCC-30, NHTSA, telephone (202) 366-1834.

SUPPLEMENTARY INFORMATION: On April 2, 1987, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, was enacted by Congress. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, Incentive Grant Criteria for Alcohol Traffic Safety Programs (the 408 program), by extending from three to five, the number of fiscal years in which a State may receive alcohol incentive grants.

Background

The 408 program was enacted in 1982, under 23 U.S.C. 408 (Pub. L. 97-364), as a two-tier grant program, providing Federal funds (basic and supplemental grants) to States that qualify by implementing certain programs designed to reduce the drunk driving problem. The amount received as a basic grant equals 30 percent of the State's FY 1983 highway safety grant (section 402) apportionment. The amount received as a supplemental grant may not exceed 20 percent of the State's FY 1983 section 402 apportionment. Section 402 apportionments are made to the States under a grant program established by the Highway Safety Act of 1966, 23 U.S.C. 402, to aid the States in conducting highway safety programs.

In 1984, section 408 was amended, Pub. L. 98-363, to expand the scope of the 408 program to include programs to combat drugged driving as well as drunk driving and to establish a third grant for which States may qualify (special grants) to encourage the States to enact tough minimum sentencing standards. The amount received as a special grant may not exceed 5 percent of the State's FY 1984 sections 402 and 408 apportionments.

Under the 1982 Act, States could receive section 408 incentive grants in no more than three fiscal years although, as discussed in further detail below, the years in which a supplemental grant is received need not be the same years as those in which a basic grant is received. Similarly, special grants (which were added under the 1984 amendment) can be received in different years than those in which a basic or supplemental grant is received.

Section 203 of Pub. L. 100-17 amends section 408 by extending from three to five, the number of fiscal years in which a State may receive section 408 incentive grants. In a Notice of Proposed Rulemaking (NPRM), published in the *Federal Register* on July 22, 1987 (52 FR

27616), the agency proposed revisions to portions of the agency's regulation implementing section 408, relating to supplemental alcohol incentive grants, to reflect this statutory change. Other portions of the regulation were amended to reflect statutory changes unrelated to supplemental grants in a final rule published in the *Federal Register* on July 22, 1987 (52 FR 27614).

Supplemental Grants

Congress provided in section 408 that a State is eligible for a supplemental grant if the State is eligible for a basic grant and provides for some or all of the criteria established by the Secretary of Transportation. By regulation, a total of twenty-two supplemental criteria have been promulgated. Under the agency's current regulation, the State must show that it has a license suspension system in which the average time from arrest to suspension of a license does not exceed an average of 45 days. (The agency, however, is proposing to amend this and other regulatory requirements under a separate rulemaking action. See discussion on page 10 of this final rule.) In addition, a State must demonstrate compliance with eight of the twenty-two criteria to qualify for a 20 percent supplemental grant in the first year, or with four of these criteria to qualify for a 10 percent supplemental grant. To qualify for a supplemental grant for a second and a third year, a State must show that it has increased its performance for each of the requirements previously adopted, and adopt two more requirements for each subsequent year, except that a State does not have to implement more than a total of fifteen criteria.

The NPRM proposed revisions to these portions of the agency's regulation, pertaining to supplemental alcohol incentive grants, and requested comments "on the manner in which a State must demonstrate that it qualifies for a supplemental grant in the fourth and fifth years." The agency proposed that, in the fourth and fifth years, (1) "a State would not have to adopt any additional [supplemental criteria]" and (2) "a State need not show increased performance for criteria adopted in previous fiscal years. The State would only be required to demonstrate that performance has been maintained in the criteria previously adopted." Comments were requested on both issues.

The comment period closed on August 21, 1987. We received twenty-one comments from the following persons and organizations: the American Insurance Association (AIA); Mr. Bill Bronrott, former alcohol-highway safety policy coordinator for retired

Congressman Michael D. Barnes; the National Association of Governors' Highway Safety Representatives (NAGHSR); the late Congressman James J. Howard, Chairman of the House Committee on Public Works and Transportation; and the remaining 17 from States.

Adoption of Additional Criteria Not Required

The agency proposed, in the NPRM, that a State would not have to adopt any additional requirements in the fourth and fifth years. For example, if a State qualifies for a supplemental grant by implementing eight supplemental criteria in the first year, the State would be required to adopt two additional supplemental criteria in the second and third fiscal years, for a total of twelve. In the fourth and fifth years, the State would be required to adopt no additional supplemental criteria. The agency expressed its concern that requiring a State to adopt additional criteria to qualify for a supplemental grant in the fourth and fifth fiscal years could diminish the effectiveness of criteria adopted in the first three fiscal years by diverting resources from implementation of those criteria.

We received one comment which took a different view. The American Insurance Association (AIA) asserts in comments that its "membership feels that NHTSA should require the adoption of one additional criteria each for the fourth and fifth years. . . . Since NHTSA does not require a state to implement more than a total of fifteen criteria, adding two additional supplements over the 4th and 5th years would ensure that the State increases its anti-drunk driving activities while resulting in a maximum of fourteen requirements—eight the first year, two each for the 2nd and 3rd year, and one each the last two years."

AIA indicates that it does not believe the concern expressed by NHTSA in the NPRM is valid, "since this could have been the case in the second and third fiscal years as well." It believes that the adoption of one additional criteria each year would not be "unreasonable or burdensome".

All other commenters, including NAGHSR, Congressman Howard and all States addressing the issue, concurred with the agency's proposal. The comments from the State of Louisiana best summarize the views expressed:

The proposal * * * would be beneficial because states would have more flexibility to focus on their most urgent alcohol traffic safety problems. * * * the states can tailor programs for local variations in the intensity and nature of the traffic problems. * * * they

can avoid sinking resources into problems which, for demographic, political or other reasons, are not likely to respond to increased funding. * * *

Of course a state already is permitted to adopt additional criteria if it chooses.

In contrast, a rule which would require a state to work a broad, rigid, programmatic schedule by increasing the number of criteria in the fourth and fifth years, would find itself inevitably throwing money after diminishing returns. The current proposal would avoid this problem by permitting a concentration of resources into the most responsive areas.

The agency has decided to adopt the proposal presented in our NPRM and require no additional criteria in the fourth and fifth fiscal year. We continue to believe that requiring a State to adopt additional criteria to qualify for a supplemental grant in the fourth and fifth fiscal years could diminish the effectiveness of criteria adopted in the first three years by diverting resources from implementation of those criteria. NHTSA is not persuaded by AIA's suggestion that adding two additional criteria would "ensure that the State increases its anti-drunk driving activities." Rather, we agree with the States that while requiring additional criteria could lead to a longer *list* of activities, it may divert a State's resources from those activities which are most effective.

Demonstration of Performance

Under the agency's current regulation, a State is required to show in the second and third fiscal year an increase in performance of each of the requirements it adopted in the prior year. In the NPRM, the agency proposed to require in the fourth and fifth fiscal years, that States show that performance has been *maintained* in the criteria previously adopted. Two commenters, NAGHSR and Mr. Bronrott, recommend that States instead be required to show an *increase* in these years. These commenters suggest, however, that States should be required to show progress in the *overall* success of the State's alcohol countermeasures program, rather than in *each* criteria (as we proposed).

Mr. Bronrott recognizes that "section 203 of Pub. L. 100-17 does not require states to demonstrate steady or increased performance in the previous fiscal years as a condition of receiving supplemental grants in the fourth and fifth years." However, he asserts that the "congressional intent of the original incentive grant bill, as a general principle, was to require states to show progress." He suggests:

While the 408 program should be made as flexible as possible, the final rule should maintain that states account for steady or increased performance in order to qualify for continuing supplemental grants. The final rule might define such steady or increased progress by measuring the overall success of a state's alcohol-highway safety program.

NAGHSR makes a similar suggestion, citing the need for flexibility and for an adequate measure of performance. NAGHSR states, "Although it may be difficult for a state to show increased performance for each of the aforementioned criteria for the fourth and fifth years of supplemental grant eligibility, we believe that showing positive performance in the overall supplemental grant program is possible and preferable to showing maintenance of effort within each supplemental criteria."

Rhode Island does not specifically address whether the States should be required to show maintenance, or a different level of performance. However, it echoes the concerns of Mr. Bronrott and NAGHSR about requiring States to address each and every criterion. "Some of the 408 criteria may militate against each other. For instance, an increased public relations effort or enforcement campaign may cause the number of persons arrested for drunk driving to decrease or may result in fewer reported violations through the 'hot line'.

Subsequently, . . . Rhode Island . . . may actually suffer a decrease in dedicated revenues because of the efficiency of their program." This concern is also mentioned in the comments of the State of Nevada.

All remaining commenters addressing this issue, agree with the agency's proposal to require that States show that performance has been maintained in each of its previously adopted requirements in the fourth and fifth fiscal years, for many of the same reasons they cited in support of requiring the adoption of no new additional criteria in fiscal years 4 and 5.

NHTSA has decided to adopt Mr. Bronrott and NAGHSR's recommendation to require that each State show in the fourth and fifth fiscal year that performance has been increased in its *overall* alcohol countermeasures program. The agency can appreciate the concerns raised by Rhode Island and the other commenters regarding the States' difficulty in demonstrating progress in each supplemental criteria in years 4 and 5.

We believe the change being adopted in this final rule addresses these concerns. The change is intended to provide flexibility to the States by

permitting them to demonstrate progress through their *overall* alcohol countermeasures programs, thereby, removing the limitation that States must address each supplemental criterion previously adopted. For example, this amendment would permit a State to qualify for supplemental grant funds in a fourth or fifth year, even if previously adopted supplemental criteria could no longer be continued. To qualify, the State would be required to adopt new supplemental criteria in order to meet the requisite number established in the regulation (at least twelve in the fourth or fifth year) and demonstrate improved performance in its overall program. The State could rely on data unrelated to the use of the discontinued criteria, and could demonstrate improved performance in a variety of ways. It is our hope that the increased flexibility provided by this final rule will enable the States to use their resources for the most effective activities and, thereby, derive the greatest highway safety benefits. Further, this change ensures that States are making progress by requiring that they show *increased* performance in their overall alcohol countermeasures programs.

Prompt Suspension

Pennsylvania suggests in its comments that the agency "waive the requirement of an average of 45 days from arrest to license suspension for those states which maintain compliance with other [criteria] originally established." This issue was not raised in the NPRM which led to this final rule. Accordingly, it can not be addressed in this rulemaking action. However, it is currently being addressed through a separate rulemaking proceeding. On April 8, 1988, NHTSA published an NPRM in the *Federal Register* [53 FR 11679], which proposed to increase flexibility for the States, by establishing alternative methods of demonstrating compliance with the section 408 criteria to qualify for alcohol incentive grant funds. The notice proposes, among other things, to eliminate the more stringent promptness requirement relating to supplemental grants, by making it consistent with the promptness requirement relating to basic grants. Comments were requested in the NPRM regarding this and other changes proposed in that action.

Grants May Be Received in Different Years.

There are a number of States that first qualified for basic and supplemental grants in FY 1984 and 1985, and are now eligible for a fourth year of funding. The final rule which was published in the

Federal Register on July 22, 1987 (52 FR 27614), permitted these eligible States to apply immediately for a fourth year basic grant in accordance with the procedures established in 23 CFR 1309.4. Of the 15 States that are now eligible for a fourth year of funding, six have applied for and received their fourth year of basic grant funds. However, since this final rule had not been issued until now, these States were unable to apply for and receive a fourth year of supplemental grant funds.

As we indicated in the NPRM (52 FR 27616), these States may now apply for a fourth year supplemental grant. Those States that received their fourth year of basic grant funds in FY 1987, may receive their fourth year supplemental grant and fifth year basic grant in FY 1988. They may apply for a fifth year supplemental grant in FY 1989, provided the State continues to meet the *basic* criteria during that year. Those States that did not apply for or receive basic grant funds in FY 1987, may apply for a fourth year basic and supplemental grant in FY 1988 and a fifth year basic and supplemental grant in FY 1989. This is consistent with a previous interpretation of the agency that section 408 does not require a State to qualify for grants in consecutive years, and that the five year limitation on a State receiving grants applies separately to each type of grant.

Federalism Assessment

The agency has considered whether this action would have any federalism implications. We have determined that this proposal would further the principles of federalism established by the Framers of the Constitution while striking an appropriate balance between increased State flexibility and an appropriate level of Federal involvement as required by the enabling legislation for this grant program. The involvement of alcohol and controlled substances in our motor vehicle fatalities does constitute a problem of national scope. For this reason, Congress directed the agency to make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. In this final rule, we provide flexibility to the States in two respects. We require that they demonstrate no additional supplemental criteria for supplemental grants funding in the fourth and fifth fiscal year. We also permit the States to demonstrate progress through their *overall* alcohol countermeasures program, thereby, removing the limitation that States must

address each supplemental criterion previously adopted.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. State participation in the 408 program is voluntary. Accordingly, neither a draft Regulatory Analysis nor a Preliminary Evaluation is required.

When the agency promulgated regulations to implement the section 408 program on February 7, 1983 (48 FR 5545), it determined that the rulemaking should be classified as significant under the Department's regulatory policies and procedures. A regulatory evaluation was prepared at that time and placed in the public docket (Docket No. 82-18; Notice 5). Persons interested in reviewing this document, should request it from the docket section.

In compliance with the Regulatory Flexibility Act, the agency has evaluated the effects of this rule on small entities. Based on the evaluation, I certify that this rule will not have significant economic impact on a substantial number of small entities. States will be recipients of any funds awarded under the regulation and, accordingly, the preparation of an Initial Regulatory Flexibility Analysis is unnecessary.

The requirements in this rule that States retain and report to the Federal government information which demonstrates compliance with alcohol incentive grant criteria, are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these requirements have been submitted to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through April 30, 1990; OMB No. 2127-0501.

The agency has also analyzed this action for the purpose of the National Environmental Policy Act. The agency has determined that this action will not have any effect on the human environment.

List of Subjects in 23 CFR Part 1309

Alcohol, Drugs, Grant programs, Transportation, Highway safety.

In accordance with the foregoing, NHTSA amends Part 1309 of Title 23 of the Code of Federal Regulations as follows:

PART 1309—[AMENDED]

1. The authority citation for Part 1309 continues to read as follows:

Authority: 23 U.S.C. 408; delegation of authority at 49 CFR 1.50.

2. Subsection 1309.6(e) is added to read as follows:

§ 1309.6 [Amended]

* * * * *

(e) To qualify for a supplemental grant for a fourth and fifth year, a State must show that it has increased performance in its overall alcohol countermeasures program.

Diane K. Steed,

National Highway Traffic Safety Administrator.

[FR Doc. 88-11133 Filed 5-17-88; 8:45 am]

BILLING CODE 9910-59-M

NW., Washington, DC 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION: On December 31, 1987, OSHA published in the *Federal Register* at 52 FR 49592, a final rule concerning grain handling facilities. This final rule added a new § 1910.272 to 29 CFR to provide employee protection at grain handling facilities from fires, grain dust explosions, and other safety hazards. At the time of promulgation of the final rule, the information collection provisions in the standard had not been approved by OMB under the Paperwork Reduction Act. On February 4, 1988, OMB approved the information collection requirements in § 1910.272 (paragraphs (d) and (i)) through February 29, 1991, assigning these requirements OMB Control Number 1218-0144.

This notice adds the OMB control number at the end of § 1910.272, to indicate that OMB approval has been received for the information requirements in paragraphs (d) and (i).

In addition, the December 31, 1987 *Federal Register* notice contained miscellaneous errors and omissions in the Appendices to the final rule. This notice makes corrections to those appendices, as they appeared in the December 31, 1987 notice.

Lists of Subjects in 29 CFR Part 1910

Fire prevention, Grain handling, Grain elevators, Occupational safety and health, Protective equipment, Safety, Welding.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Accordingly, pursuant to section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 9-83 (48 FR 35736); and 29 CFR Part 1911, 29 CFR Parts 1917 and 1910 are amended as set forth below.

Signed at Washington, DC, this 10th day of May, 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

Accordingly, § 1910.272 and Appendices A and C to § 1910.272, as published at 52 FR 49592-49631 (FR Doc. 87-29928) are amended as set forth below:

PART 1910—[AMENDED]

1. The Authority Citation for Subpart R of 29 CFR Part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-78 (41 FR 25059), or 9-83 (48 FR 35736), as applicable.

Sections 1910.261, 1910.262, 1910.265, 1910.267, 1910.268, 1910.269, 1910.272, 1910.274 and 1910.275 also issued under 29 CFR Part 1911.

§ 1910.272 [Amended]

2. In § 1910.272, on page 49627, column 1, the OMB control number statement is amended to add the number "1218-0144", and the statement is moved to the end of the section (following Appendix C).

Appendix A—[Amended]

3. Appendix A to § 1910.272 is amended as follows:

a. On page 49628, column 1, Item 6, a sentence is added at the end of the first paragraph to read "Contractors are responsible for informing their own employees."

b. On page 49630, column 2, the first paragraph, lines 21 and 22 are revised to read "or by some other equally effective means. When V-type belts are used to".

c. On page 49630, column 3, lines 2, 3 and 4 are revised to read "from the motor drive shaft, it will be necessary to provide electrical continuity from the head pulley assembly to ground, e.g., motor grounds."

Appendix C—[Amended]

4. Appendix C to § 1910.272 is amended as follows:

a. On page 49630, column 2, Item 12, lines 3 and 4 are corrected to read "Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

b. On page 49630, column 2, Item 13, lines 2 and 3 are corrected to read "Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

c. On page 49630, column 2, Item 14, lines 4 and 5 are corrected to read "Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

d. On page 49630, column 2, Item 16, lines 3 and 4 are corrected to read "Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

e. On page 49630, column 3, Item 19, lines 3 and 4 are corrected to read "Plants; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

f. On page 49630, column 3, Item 21, lines 4 and 5 are corrected to read

"Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

g. On page 49630, column 3, Item 22, lines 3 and 4 are corrected to read "Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

h. On page 49630, column 3, Item 23, lines 3 and 4 are corrected to read "Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

i. On page 49630, column 3, Item 24, lines 3 and 4 are corrected to read "Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

j. On page 49631, column 2, Item 30, lines 3 and 4 are corrected to read "Department, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

k. On page 49631, column 3, Item 31, lines 2 and 3 are corrected to read "Mill Mutual Loss Control Department, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

[FR Doc. 88-10902 Filed 5-17-88; 8:45 am]

BILLING CODE 4510-26-M

advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data or arguments. Commenters should include their name and address, identify this notice (CCGD8-88-10) and the specific section of the proposal to which the comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are LT Michael W. Walter, Project Officer, Coast Guard Group Galveston, Texas, and LCDR James J. Vallone, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The marine event requiring this regulation is an unpowered raft race called "The Neches Boat Club Raft Race". This event is sponsored by the Neches Boat Club. It will consist of approximately 300 homemade rafts. The course followed by the race will be marked by buoys positioned at various points along its route.

Approximately 200 spectator boats are expected for this event. While viewing the event at any point outside the regulated area is not prohibited, spectators will be encouraged to congregate within areas designated by the sponsor.

Non-participating vessels will be permitted to transit the area at *NO WAKE SPEED* every hour on the hour for a period of 10 minutes.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

Part 100—[Amended]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-8-88-10 is added to read as follows:

§ 100.35-8-88-10 Neches River, Texas.

(a) *Regulated area.* The following area will be closed to all vessel traffic: The Neches River from Lawson's Crossing downstream to the Port of Beaumont.

TX, except vessels participating in the Neches Boat Club Raft Race.

(b) *Special local regulation.* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol the event.

(1) No spectator shall anchor, block, loiter in or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(2) When hailed and/or signaled, by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. He may terminate the event at any time it is deemed necessary for the protection of life and/or property. He may be reached on VHF-FM Channel 16, when required, by the call sign "PATCOM".

(c) *Effective dates:* These regulations will be effective from 7:30 a.m. to 6:30 p.m. 22 May 1988.

Dated: May 5, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 88-11080 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD1 88-021]

Amendments to Empire State Rowing Regatta Regulations, Albany, NY

AGENCY: Coast Guard; DOT.

ACTION: Final Rule.

SUMMARY: The regulations governing the annual Empire State Regatta are being amended to reflect minor changes in race organization. Additionally, this final rule notifies the public that, for the 1988 running of the Empire State Regatta, the regulations will be in effect from June 10 to June 12, 1988 and will close the Albany section of the Hudson River during specific periods of time as put forth below. The regatta is the northeast regional championships of the U.S. Rowing Association.

EFFECTIVE DATES: These regulations are effective from 12:01 pm, June 10, 1988 to 7:00 pm on June 12, 1988 and thereafter

annually on the first or second weekend (Friday, Saturday, and Sunday) in June as published in the First Coast Guard District Local Notices to Mariners.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Luke Brown, (617) 223-8311.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. These regulations which will govern the annual running of the Empire State Regatta are considered necessary for the safety of life on the navigable waters of the United States. The regulations will be in effect each year for the regatta and public notification of this regulation will be accomplished by publication in the First Coast Guard District Local Notice to Mariners. Each year, commercial interests will be contacted directly by the Coast Guard.

Drafting Information

The drafters of these regulations are LT L. BROWN, project officer, First Coast Guard District Boating Affairs Branch and CDR M.A. LEONE, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The Empire State Regatta serves as the northeast regional championships of the U.S. Rowing Association. Approximately 1,500 participants are expected and the race format will consist of multiple heats in 26 to 28 foot rowing shells. The course consists of six (6) 2000 meter long lanes which will be delineated by temporary floats put in place by the sponsor. The floats will be secured in place by an underwater grid system which will be lowered at the end of each day of racing. The underwater grid network will remain in place overnight at a depth of six (6) feet thereby limiting the vessel size that may transit the area. During racing hours, the river will be closed to all traffic except race participants and race escort/patrol vessels. At the conclusion of the day's racing, the river will be opened to allow escorted passage of transiting vessels less than 20 meters in length. Along with Coast Guard patrols, the event will be patrolled by local and state law enforcement officials, the Coast Guard Auxiliary, and sponsor provided patrol craft.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

§ 100.308 [Amended]

2. Section 100.308(a) is revised to read as follows: (a) *Regulated area.* That portion of the Hudson River, extending bank to bank, between the Interstate Route 90 bridge (latitude 42°42'04" N; Longitude 73°42'15" W) and the Dunn Memorial bridge (latitude 42°38'32" N; longitude 73°44'55" W) in Albany, New York.

3. Section 100.308(b) is revised to read as follows: (b) *Effective period.* This regulation is effective from 12:01 pm on June 10, 1988 through 7:00 pm on June 12, 1988 and annually thereafter during the same time periods on the first or second weekend (Friday, Saturday, and Sunday) in June as published in the First Coast Guard District Local Notice to Mariners.

4. In § 100.308, paragraph (c)(1) and (3) are revised to read as follows:

(c) * * *

(1) The regulated area will be closed to all vessel traffic, except official patrol craft and sponsor craft, during the following times: Friday from 12:01 pm to 7:00 pm; Saturday from 6:00 am to 7:00 pm; and on Sunday from 6:00 am to 7:00 pm.

* * * * *

(3) Vessels less than 20 meters in length may transit the regulated area at the conclusion of each day of racing. Transiting vessels will be escorted by official regatta patrol vessels specified in paragraph (c)(5) of this section.

Approximate periods for transit will be: Friday at 7:00 pm through Saturday at 6:00 am; and again on Saturday at 7:00 pm through Sunday at 6:00 am

5. Section 100.308(c)(8) is redesignated as § 100.308(c)(9).

6. A new paragraph (c)(8) § 100.308 is added to read as follows:

(c) * * *

(8) In the event of an emergency or as directed by the Coast Guard Patrol Commander, the sponsor shall dismantle the race course to allow the passage of any U.S. Government vessel or any other designated emergency vessel.

Dated: May 6, 1988.

R.L. Johanson,

*Rear Admiral, U.S. Coast Guard Commander,
First Coast Guard District.*

[FR Doc. 88-11079 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 9

Servicemen's and Veterans' Group Life Insurance

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) is amending its regulations relating to Servicemen's and Veterans' Group Life Insurance to reflect that the law: (1) Provides for an increase in the maximum amount of Servicemen's and Veterans' Group Life Insurance which may be purchased and (2) changes to amounts evenly divisible by \$10,000, the amounts that may be issued when less than maximum coverage is desired.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul F. Koons, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, (215) 951-5360.

SUPPLEMENTARY INFORMATION: The Veterans' Administration Health-Care Amendments of 1985, Pub. L. 99-166, in part, amends sections 767 and 777 of title 38, United States Code. The amendments to sections 767 and 777 provide for an increase from \$35,000 to \$50,000 in the maximum amount of Servicemen's and Veterans' Group Life Insurance. These amendments also provide that amounts of less than \$50,000 may be issued only in increments that are evenly divisible by \$10,000.

The VA has determined that prior publication for notice and public comment is, pursuant to 38 CFR 1.12, impracticable and contrary to the public interest. There exists good cause for making these final regulatory amendments effective without prior public comment. Since the amendments merely reflect statutory changes in the law, allowing public comment would have no effect on implementing the changes mandated by Congress. Additionally, the cost to the Government, ultimately a burden to the taxpayer, for prior publication is saved.

These final regulatory amendments are considered non-major under the criteria of Executive Order 12291, entitled Federal Regulation. They will

not have an annual effect on the economy of \$100 million or more; will result in no significant increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions. They will have no adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since a notice of proposed rulemaking will not be published, these changes do not constitute a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, the Administrator certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612. This certification can be made because these final regulatory amendments affect only individual VA beneficiaries, and merely reflect statutory changes.

The Catalog of Federal Domestic Assistance program number for these final regulatory amendments is 64.103.

List of Subjects in 38 CFR Part 9

Life insurance, Servicemen's and Veterans' group.

Approved: April 11, 1988.

Thomas K. Turnage,
Administrator.

38 CFR Part 9, Servicemen's Group Life Insurance and Veterans' Group Life Insurance, is amended as follows:

§ 9.1 [Amended]

1. In § 9.1, paragraph (j) remove the numbers "212" and add, in their place, the numbers "213".

§ 9.2 [Amended]

2. In § 9.2, paragraphs (a) and (b) remove the words "December 1, 1981" and add, in their place, the words "January 1, 1986".

3. In § 9.3, paragraph (d) is revised to read as follows:

§ 9.3 Applications.

(d) A member who, while performing active duty or active duty for training under a call or order specifying a period of less than 31 days, or inactive duty for training scheduled in advance by competent authority including travel directly to or from any such duty, suffers an injury, or disability or aggravation of a preexisting disability or injury that renders the member uninsurable at standard premium rates, may be granted Veterans' Group Life Insurance in an

amount not to exceed his or her Servicemen's Group Life Insurance provided the initial premium and proof of such injury or disability is submitted to the administrative office within 120 days after such training is terminated.

(Authority: 38 U.S.C. 768(b), 777(a))

§ 9.3 [Amended]

4. In § 9.3(e), remove the words "December 1, 1981" everywhere it appears and add, in their place, the words "January 1, 1986".

5. Section 9.4 is revised to read as follows:

§ 9.4 Amount of insurance.

Effective January 1, 1986, Servicemen's Group Life Insurance is issued in the amount of \$50,000 unless the insured member elects in writing—

- (a) To not be insured, or
- (b) To be insured in any lesser amount evenly divisible by \$10,000.

The \$50,000 coverage does not apply to those members separated or released prior to January 1, 1986, except for those members eligible for coverage under § 9.1(a)(3) of this part.

(Authority: 38 U.S.C. 767)

6. In § 9.6, the first sentence of paragraph (a) is revised to read as follows:

§ 9.6 Waiver or reduction of coverage.

(a) A member may waive his or her right to group coverage or elect to reduce the amount of insurance from the statutory maximum to any lesser amount evenly divisible by \$10,000 by filing a written notice with his or her uniformed service. * * *

* * * * *
7. In § 9.8, paragraph (c) is revised to read as follows:

§ 9.8 Restoration of coverage.

* * * * *
(c) Subject to approval by the insurer, coverage is restored in the amount applied for (the statutory maximum or a lesser amount evenly divisible by \$10,000) effective the date of receipt of application with evidence of good health by the uniformed service:

(1) For a member who previously waived the right to be covered or elected to be covered for less than the statutory maximum; or

(2) For a member who forfeited the right to be covered for one of the offenses listed in § 9.34 of this part but who was restored to duty under conditions which, in effect, result in a remission of sentence.

(Authority: 38 U.S.C. 210(c), 767(c))

8. In § 9.16, paragraph (g) and the introductory text of paragraph (h) are revised to read as follows:

§ 9.16 Beneficiaries and options.

(g) Until and unless otherwise changed, a beneficiary designation and settlement option election of record on the date a statutory increase in coverage takes effect shall be considered to be a beneficiary and optional settlement election for the increased amount as well, and any beneficiary named therein shall be entitled to the same percentage (%) share of the new total coverage amount as that beneficiary was entitled to prior to the statutory increase in coverage.

(Authority: 38 U.S.C. 210(c))

(h) In any case in which a member separated or released from all obligation to perform duty in a uniformed service reenters on duty after a break in service while covered during the period of protection afforded under §§ 9.5(a) or 9.7(a) or (b) of this part after termination of duty and waives coverage or elects less coverage than was carried prior to reentry on duty, an existing designation of beneficiary or election of optional settlement is not canceled with respect to any amount of insurance not replaced upon such reentry on duty.

(Authority: 38 U.S.C. 767)

9. In § 9.22, paragraph (b) is revised to read as follows:

§ 9.22 Administrative decisions.

(b) When determination is required on a claim that a member who waived coverage, or whose coverage was forfeited for one of the offenses listed in § 9.34 of this part was in fact insured, or that a member who elected to be insured was insured for an amount greater than the amount shown in the record, and there is no record of an application to be insured or to increase the amount of insurance as required by § 9.8(c) of this part:

(1) The person making the claim will be required to submit all evidence available concerning the member's actions and intentions with respect to Servicemen's Group Life Insurance or Veterans' Group Life Insurance.

(2) Request will be made to the member's uniformed service and any other likely source of information considered necessary, for whatever evidence in the form of copies of payroll or personnel records, statements of

persons having knowledge of the facts, etc., is essential to a decision in the matter.

Based on the evidence obtained, a formal determination will be made as to whether the member involved is deemed to have applied to be insured, or to be insured for an amount other than the amount shown in the record. The determination will include a finding as to the member's health status for insurance purposes based on the evidence available.

(Authority: 38 U.S.C. 767)

§ 9.24 [Amended]

10. In § 9.24(a) (1) and (2), remove the words "December 1, 1981" and add, in their place, the words "January 1, 1986".

11. In § 9.26, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§ 9.26 Conversion privilege.

(b) At the termination of Veterans' Group Life Insurance, an insured has the right to convert the group coverage to an individual policy of life insurance without disability or other supplementary benefits with one of the eligible participating life insurance companies as follows:

(1) The individual policy to which an insured converts must be on a plan currently written by the company selected by the insured, except term insurance, in an amount which does not exceed the amount of the insured's group coverage at time application for conversion is made, and which does not provide for the payment of any sum less than the face value of the individual policy or for the payment of an additional amount of premiums if the insured engages in the military service of the United States. The premium for such individual policy shall be the premium, as determined by the company issuing the policy, applicable to the class of risk (other than health conditions and military service) to which the insured belongs and to the form and amount of the individual policy at the insured's attained age at date of issue.

(Authority: 38 U.S.C. 777)

12. In 9.27, paragraph (a) is revised to read as follows:

§ 9.27 Health standards.

(a) For the purpose of determining if a member who incurred a disability or aggravated a preexisting disability

during a period of active duty or active duty for training under a call to duty specifying a period of less than 31 days or during a period of inactive duty was rendered uninsurable at standard premium rates, the underwriting criteria used by the insurer in determining good health for persons applying to it for life insurance in amounts not exceeding the maximum amount of coverage then available under 38 U.S.C. 767 will be used.

(Authority: 38 U.S.C. 767)

13. Section 9.36 is revised to read as follows:

§ 9.36 Veterans' Group Life Insurance.

Veterans' Group Life Insurance shall be issued under the following rules:

(a) The insurance shall be issued in an amount not to exceed the statutory maximum, as provided for under 38 U.S.C. 767(a) and 777, that is evenly divisible by \$10,000. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of the statutory maximum at any one time. Should any person remit premiums in excess of the premiums payable for the maximum allowable amount of coverage, the insurer shall be responsible only for the refund of such excess premiums paid.

(b) The insurance shall:

(1) Provide protection against death;
 (2) Be issued on a nonrenewable 5-year term basis; except that, insurance issued to members of the Individual Ready Reserve or Inactive National Guard may be renewed provided the individual remains a member of the Individual Ready Reserve or Inactive National Guard throughout the period of insurance;

(3) Have a no cash, loan, paid-up or extended values;

(4) Except as otherwise provided, lapse for nonpayment of premiums.

(c) Any person insured under Veterans' Group Life Insurance who becomes insured under Servicemen's Group Life Insurance may within 60 days after becoming so insured convert any or all of his or her Veterans' Group Life Insurance to an individual policy of insurance in accordance with § 9.26 of this part.

(Authority: 38 U.S.C. 777)

[FR Doc. 88-11021 Filed 5-17-88; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

[3375-5]

40 CFR Part 52**Approval and Promulgation of Implementation Plans; State of Kansas; Ozone Attainment Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rulemaking.

SUMMARY: Part D of the Clean Air Act, as amended, requires that a state revise its state implementation plan (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On February 20, 1985, EPA advised the Governor of Kansas that, based upon air quality, the ozone SIP for the Kansas City Metropolitan Area (KCMA) was substantially inadequate to attain the NAAQS.

On July 2, 1986, the state submitted a revised ozone SIP for Johnson and Wyandotte Counties, Kansas. On January 6, 1988, the state submitted revised regulations for the control of volatile organic compound emissions in the KCMA. Today's action takes final action to approve these revisions which, together, constitute a complete Kansas ozone SIP for the KCMA.

DATES: This action is effective June 17, 1988.

ADDRESSES: The state submittal and EPA's technical support document are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101; Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620; and Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker, (913) 236-2893 or FTS 757-2893.

SUPPLEMENTARY INFORMATION:

On October 2, 1987, in two separate Federal Register notices, EPA proposed approval of revisions to the Kansas ozone SIP for the KCMA. The first notice (52 FR 36963) proposed approval of draft revisions to the state's regulations for the control of volatile organic compound (VOC) emissions. The second notice (52 FR 36965) proposed approval of all remaining elements of the revised plan. No public comments were received on either of these proposed rulemakings. For a detailed discussion of the VOC

regulations and the overall plan requirements, the reader is referred to the above referenced Federal Register notices.

After proper notice, the state held its public hearing for the VOC regulations on November 13, 1987. Subsequent to the hearing, minor clarifications were made to the compliance and recordkeeping provisions of Rule 28-19-74, Wool fiberglass manufacturing. The changes were nonsubstantive in that the degree of emission control, compliance determination method, and source applicability requirements were not changed. None of the remaining regulations were changed from their proposed versions.

On January 6, 1988, the Secretary of the Kansas Department of Health and Environment (KDHE) submitted both temporary and permanent versions of the final regulations. Both sets of regulations were approved by the Kansas Attorney General and the temporary versions became effective on December 16, 1987. As provided by state statute, the temporary regulations remain in effect through April 30, 1988; the permanent regulations become effective on May 1, 1988, unless modified by the state's legislature before that date. If any substantive changes occur in the permanent regulations prior to their effective date, EPA will initiate rulemaking action to withdraw this approval action. The temporary and permanent regulation packages are identical in content; therefore, only the permanent versions have been included with the state submittal materials.

In numerous instances, the revised Kansas regulations provide for departmental discretion to approve compliance plans and test methods which are alternatives to the EPA reference methods. EPA is approving these regulations with the understanding that all such alternative compliance plans and test methods must be submitted to EPA, and approved, as individual SIP revisions. In the absence of such approval, the enforceable requirements of the SIP would be the emission limits or reduction requirements stated in the regulations. Also, the Kansas regulations contain provisions whereby testing is required when the facility intends to demonstrate compliance by improved operations or new emission controls, yet no test procedures are specified. Examples of such provisions are transfer efficiency (TE) and vapor processing systems. Test methods which are developed by the state must be approved by EPA before facilities may demonstrate compliance through alternative controls and/or TE.

On November 24, 1987, at 52 FR 45044, EPA proposed a policy for approval of post-1987 ozone plans for areas which would not attain the ambient standard by December 31, 1987. In that notice the Kansas City area appeared on a list of potential 1988 SIP call areas because preliminary air quality data for the period 1984-1986 indicated the area may still be exceeding the ozone standard. The NAAQS for ozone is attained when the number of expected exceedances is less than or equal to one per year when averaged over the three most recent years of record (see 40 CFR 50.9). EPA has now completed its review of the air quality data from January 1, 1985, through December 31, 1987, and the data show that the area is attaining the ozone standard. Consequently, EPA does not intend to issue a SIP call for this area in 1988.

EPA Action

In today's notice, EPA takes final action to approve the July 2, 1986, submittal of revisions to the Kansas ozone SIP for the KCMA. Also, EPA takes final action to approve the January 6, 1988, submittal of revised VOC regulations. These two submittals, together, constitute a complete ozone plan for the Kansas portion of the KCMA.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 18, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Note.—Incorporation by reference of the State Implementation Plan for the state of Kansas was approved by the Director of Federal Register on July 1, 1982.

Date: May 1, 1988.

Lee M. Thomas,
Administrator.

PART 52—[AMENDED]

40 CFR Part 52, Subpart R, is amended as follows:

Subpart R—Kansas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.870 is amended by adding paragraph (c)(20) as follows:

§ 52.870 Identification of plan.

(c) * * *

(20) Revisions to the ozone attainment plan for the Kansas City metropolitan area were submitted by the Governor on July 2, 1986. Pursuant to this plan, revised regulations for the control of volatile organic compound emissions were submitted by the Secretary of the Kansas Department of Health and Environment on January 6, 1988. In numerous instances, the revised Kansas regulations provide for departmental discretion to approve compliance plans and test methods which are alternatives to the EPA reference methods. EPA approves these regulations with the understanding that all such alternative compliance plans and test methods must be submitted to EPA, and approved, as individual SIP revisions. In the absence of such approval, the enforceable requirements of the SIP shall be the emission limits or reduction requirements stated in the regulations. Also, the Kansas regulations contain provisions whereby testing is required when the facility intends to demonstrate compliance by improved operations or new emission controls, yet no test procedures are specified. Examples of such provisions are transfer efficiency (TE) and vapor processing systems. Test methods which are developed by the state must be approved by EPA before facilities may demonstrate compliance through alternative controls and/or TE.

(i) *Incorporation by reference.* (A) Revised regulations K.A.R. 28-19-8, Reporting required; K.A.R. 28-19-61, Definitions; K.A.R. 28-19-62, Testing procedures; K.A.R. 28-19-63, Automobile and light-duty truck surface coating; K.A.R. 28-19-64, Bulk gasoline terminals; K.A.R. 28-19-65, VOC liquid storage in permanent fixed roof type tanks; K.A.R. 28-19-66, VOC liquid storage in external floating roof tanks; K.A.R. 28-19-69, Cutback asphalt; K.A.R. 28-19-70, Leaks from gasoline delivery vessels and vapor collection systems; K.A.R. 28-19-71, Printing operations; K.A.R. 28-19-72, Gasoline dispensing facilities; K.A.R. 28-19-73, Surface coating of miscellaneous metal parts and products and metal furniture; K.A.R. 28-19-74, Wool fiberglass manufacturing; and K.A.R. 28-19-75, Solvent metal cleaning. Temporary versions of these regulations are effective December 16, 1987, through April 30, 1988. The permanent regulations are effective May 1, 1988.

(B) Letter of January 6, 1988, from the Secretary of the Kansas Department of

Health and Environment. This letter establishes the effective dates for the revised regulations referenced in subparagraph (20)(i)(A) above.

(ii) *Additional material.* (A) State of Kansas Implementation Plan, Part A—Kansas City Metropolitan Area, Ozone, dated June 1986, submitted by the Governor on July 2, 1986. The plan contains an attainment demonstration, emissions inventories, and a control strategy.

(B) Supplemental information, pursuant to the above referenced plan, was submitted on August 19, 1987.

(C) Negative declarations for certain VOC source categories were submitted on April 16 and August 18, 1987.

[FR Doc. 88-10078 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5F3256/P953; FRL-3381-2]

Pesticide Tolerance for AC 222,293; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: In the Federal Register of April 20, 1988 (53 FR 12943), EPA issued a final rule establishing tolerances for the herbicide AC 222,293 (40 CFR 180.437) and its metabolites in or on various raw agricultural commodities. Through a typographical error, the pesticide petition (PP) number in the bracketed heading of the document was inadvertently misstated as "PP 5F3256." The correct pesticide petition number is "PP 5F3265."

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert J. Taylor, Product Manager (PM) 25, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number:
Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1800.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346(d)(2)).)

Dated: May 5, 1988

Douglas D. Camp,

Director, Office of Pesticide Programs.

[FR Doc. 88-10994 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2800 and 2880

[Circular No. 2607; AA-320-08-4830-02]

Amendment to the Appeals Provisions of the Regulations for Rights-of-Way, Principles and Procedures and Rights-of-Way Under the Mineral Leasing Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends §§ 2804.1(b) and 2884.1(b) to alleviate confusion by clarifying that petitions for stay of decisions relating to the issuance of rights-of-way and permits as well as rights-of-way and temporary use permits under the Mineral Leasing Act shall be filed in the Office of Hearings and Appeals, Department of the Interior.

EFFECTIVE DATE: May 18, 1988.

ADDRESS: Inquiries and suggestions should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Eleanor R. Schwartz, (202) 343-8735.

SUPPLEMENTARY INFORMATION: Under the current regulations pertaining to rights-of-way and rights-of-way under the Mineral Leasing Act there has been some confusion about where a request for a stay of a decision should be filed. Sections 2804.1(b) and 2884.1(b) of the regulations presently leave the public with the impression that petitions for stay of decisions could or may be filed with the Secretary of the Interior. However, authority to consider and decide appeals to the Secretary has been delegated to the Director, Office of Hearings and Appeals, if the appeals do not lie within the jurisdiction of an established Appeals Board. Therefore, this final rulemaking amends §§ 2804.1(b) and 2884.1(b) to clarify that petitions for the stay of a decision relating to rights-of-way and rights-of-way under the Mineral Leasing Act shall be filed with the Director, Office of Hearings and Appeals. This Office is part of the Office of the Secretary of the Interior.

The Department of the Interior has determined that, because this rulemaking changes only the location where petitions for stay of decisions are filed, it is a rule of organization, procedure, and practice and does not require notice and an opportunity for public comment under the

Administrative Procedure Act (5 U.S.C. 553(b)(A)). Therefore, this amendment is published as a final rulemaking to be effective June 17, 1988.

The principal author of this final rulemaking is Mark Lawrence, Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that because this rule is an administrative action, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects

43 CFR Part 2800

Communications, Highways and roads, Pipelines, Public lands rights-of-way, Reporting and recordkeeping requirements.

43 CFR Part 2880

Administrative practice and procedures, Common carriers, Pipelines, Public lands rights-of-way, Reporting and recordkeeping requirements.

Under the authority of section 310 and Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740, 1761-1771) and section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Subpart 2804, Part 2800, Group 2800, and Subpart 2884, Part 2880, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below:

PART 2800—[AMENDED]

1. The authority citation for Part 2800 continues to read:

Authority: 43 U.S.C. 1761-1771.

2. Section 2804.1(b) is revised to read:

§ 2804.1 Appeals.

(b) All decisions of the authorized officer under this part shall remain effective pending appeal unless the Secretary rules otherwise. Petitions for the stay of a decision shall be filed with the Office of Hearings and Appeals, Department of the Interior.

PART 2880—[AMENDED]

3. The authority citation for Part 2880 continues to read:

Authority: 30 U.S.C. 185.

4. Section 2884.1(b) is revised to read:

§ 2884.1 Appeals.

(b) All decisions of the authorized officer under this part shall remain effective pending appeal unless the Secretary rules otherwise. Petitions for the stay of a decision shall be filed with the Office of Hearings and Appeals, Department of the Interior.

May 9, 1988.

James E. Cason.

Acting Assistant Secretary of the Interior.
[FR Doc. 88-11069 Filed 5-17-88; 8:45 am]

BILLING CODE 4310-84-M

Drafting Information

The principal persons involved in drafting this rulemaking are Mr. Thomas M. Nolan, Project Manager, and Lieutenant Commander Don M. Wrye, Project Counsel, Office of Chief Counsel.

Background

Flashlights on lifeboats and liferafts were required to be constructed in accordance with 46 CFR 161.008. The regulation required that each flashlight built to this specification be Coast Guard "Approved." This requirement forced shipowners and operators to purchase flashlights from a specific group of manufacturers.

The regulations for emergency outfits on tank vessels and for fireman's outfits on other vessels required an explosion-proof flashlight or a flashlight listed by Underwriters Laboratories Inc. (UL) for use in a designated hazardous atmosphere. A flashlight of this type was also required as part of the safety equipment on self-propelled vessels carrying bulk liquefied gases.

The Coast Guard, in conjunction with the American Society for Testing and Materials (ASTM) Committee F25 on Shipbuilding, has developed a standard specification for flashlights on vessels. This standard, ASTM F1014-1986, "Standard Specification for Flashlights on Vessels," covers three types of flashlights. These types are as follows:

Type I—Flashlights for use in lifeboats and liferafts,

Type II—Flashlights for use in hazardous locations where fire or explosion hazards may exist due to the presence of flammable gases or vapors, flammable liquids, combustible dust, or ignitable fibers or flyings, and

Type III—Flashlights for use in lifeboats and liferafts that are also suitable for hazardous locations.

This rule deletes 46 CFR 161.008. Manufacturers of flashlights who have current Certificates of Approval for their flashlights may continue to label their flashlights with the appropriate U.S. Coast Guard approval number up to the expiration date of the Certificate of Approval. These Certificates will not be re-issued after their expiration date. Coast Guard approved flashlights in lifeboats presently installed on U.S. flag vessels need not be replaced as long as they are in serviceable condition. These flashlights will be checked at each servicing of the lifeboats.

This rule requires flashlights for lifeboats and liferafts to be constructed to ASTM F1014-1986 as a Type I or Type III flashlight. It also requires flashlights

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33, 35, 75, 77, 94, 96, 108, 154, 160, 161, 192 and 195

[CGD 82-042]

Specification for Hand Held Flashlights

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule deletes 46 CFR 161.008, and incorporates by reference in the specific vessel regulations the American Society for Testing and Materials standard ASTM F1014-1986, Standard Specification for Flashlights on Vessels. This rulemaking incorporates this industry standard by reference in the regulations which require flashlights on lifeboats and liferafts, and flashlights suitable for use in hazardous classified atmospheres in emergency lockers and fireman's outfits, and as part of the safety equipment on self-propelled vessels carrying bulk liquefied gases. These regulations incorporate an up-to-date standard which will allow a wider variety of flashlights to be used, without jeopardizing the safety of either the vessel or personnel.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas M. Nolan, Office of Marine Safety, Security, and Environmental Protection, (202) 267-2206.

DATES: This regulation is effective on August 16, 1988. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 16, 1988.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published in the *Federal Register* on September 25, 1987 (52 FR 36062). Interested persons were requested to submit comments. A total of five comments were received.

in emergency lockers, fireman's outfits, and as part of the safety equipment on self-propelled vessels carrying bulk liquefied gases to be constructed to ASTM F1014-1986 as a Type II or Type III flashlight. ASTM F1014-1986 contains a section on marking which requires flashlights for use in lifeboats or liferafts (Type I and Type III) to be marked with the ASTM standard number and the type of flashlight. Type II flashlights can be identified by the independent test laboratory label and the hazardous area designation. This labeling enables Coast Guard inspectors to determine acceptability through product marking. Flashlights constructed in accordance with this ASTM Standard will provide a wider variety of acceptable flashlights without jeopardizing the safety of either the vessel or personnel.

Discussion of Comments

Two comments stated that the proposed regulations are deleting the present flashlight acceptance in accordance with Underwriters Laboratories Inc. (UL) labeling based on UL Standard 783, Electric Flashlights and Lanterns For Use in Hazardous Locations, Class I, Groups C and D. Paragraph 12 of ASTM F1014-1986 states that flashlights to be used in hazardous locations (Type II and Type III) must be tested by an independent testing laboratory to UL 783 and must bear the label of that testing laboratory stating that the flashlight meets the UL standard. The ASTM standard does not require Type II flashlights to be "ASTM" labeled, but does require an independent laboratory listing mark. This is consistent with present practice.

One comment asked if the Coast Guard will continue to accept UL listed flashlights for use. UL listed flashlights bearing the testing laboratory label would meet the criteria of paragraph 12 of ASTM F1014-1986, and would therefore be acceptable for use.

One comment suggested that the proposed regulations be amended to specifically require that Type II and Type III flashlights be listed by an independent testing laboratory. This is addressed in paragraph 12 of ASTM F1014-1986 which requires flashlights to be used in hazardous locations, which covers Type II and Type III flashlights, be listed by an independent testing laboratory.

One comment suggested that the proposed regulations be amended to specifically require that Type I flashlights be listed by an independent testing laboratory. This proposal was not adopted. This rulemaking is designed to reduce the cost of flashlights for use on vessels. The ASTM standard

provides maritime personnel with a flashlight that is comparable to the old Coast Guard "Approved" flashlights at reduced cost. The requirements for a Type I flashlight will provide for a wider variety of acceptable flashlights for lifeboats without jeopardizing the safety of either the vessel or personnel.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; Feb. 26, 1979). The economic impact of these rules has been found to be so minimal that further evaluation is unnecessary. Since the impact of the proposal is expected to be so minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

46 CFR Part 33

Coast Guard, Marine safety, Fire protection, Tank vessels, Barges, Incorporation by reference.

46 CFR Part 35

Coast Guard, Marine safety, Navigation (water), Reporting requirements, Tank vessels, Barges, Seaman, Incorporation by reference.

46 CFR Part 75

Coast Guard, Marine safety, Passenger vessels, Incorporation by reference.

46 CFR Part 77

Coast Guard, Marine safety, Passenger vessels, Navigation (water), Incorporation by reference.

46 CFR Part 94

Cargo vessels, Coast Guard, Marine safety, Incorporation by reference.

46 CFR Part 96

Cargo vessels, Coast Guard, Marine safety, Navigation (water), Incorporation by reference.

46 CFR Part 108

Coast Guard, Fire protection, Vessels, Continental shelf, Oil and Gas Exploration, Marine safety, Marine resources, Incorporation by reference

46 CFR Part 154

Gases, Hazardous materials transportation, Marine safety, Natural Gas Vessels, Incorporation by reference.

46 CFR Part 160

Coast Guard, Marine safety, Incorporation by reference.

46 CFR Part 161

Coast Guard, Fire prevention, Marine safety, Incorporation by reference.

46 CFR Part 192

Coast Guard, Marine safety, Oceanographic vessels, Communications Equipment, Incorporation by reference.

46 CFR Part 195

Coast Guard, Marine safety, Oceanographic vessels, Navigation (water), Incorporation by reference.

For the reasons set forth in the preamble, the Coast Guard amends 46 CFR Parts 33, 35, 75, 77, 94, 96, 108, 154, 160, 161, 192 and 195 of Chapter 1 of Title 46, Code of Federal Regulations, as follows:

PART 33—[AMENDED]

1. The authority citation for Part 33 continues to read as follows:

Authority: 46 U.S.C. 3102(a), 3306, 49 CFR 1.46.

2. In Part 33, § 33.01-3 is added to read as follows:

§ 33.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the *Federal Register* and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels
Sections effected—33.15-10(j).

Note: All other documents referenced in this Part are still in effect.

3. In § 33.15-10 paragraph (j) is revised to read as follows:

§ 33.15-10 Description of equipment for lifeboats—TB/ALL

(j) *Flashlights.* The flashlight shall be a Type I or Type III constructed and marked in accordance with ASTM F1014-1986. Three spare cells and two spare bulbs, stowed in a watertight container, shall be provided with each flashlight. Batteries shall be replaced yearly during the annual stripping, cleaning, and overhaul of the lifeboats.

Note: Flashlights bearing a Coast Guard approval number may continue to be used in lifeboats and liferafts as long as they are in a serviceable condition.

PART 35—[AMENDED]

4. The authority citation for Part 35 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

5. In Part 35, § 35.01-3 is added to read as follows:

§ 35.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the *Federal Register* and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.

ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Section effected—35.30-20(c)(3)

Note: All other documents referenced in this Part are still in effect.

6. In § 35.30-20 paragraph (c)(3) is revised to read as follows:

§ 35.30-20 Emergency equipment-TB/ALL

(c) *

(3) One, Type II or Type III, flashlight constructed and marked in accordance with ASTM F1014-1986.

PART 75—[AMENDED]

7. The authority citation for Part 75 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

8. In Part 75, § 75.01-3 is added to read as follows:

§ 75.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the *Federal Register* and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.

ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections affected—75.20-15(j).

Note: All other documents referenced in this Part are still in effect.

9. In § 75.20-15, paragraph (j) is revised to read as follows:

§ 75.20-15 Description of equipment for lifeboats.

(j) *Flashlight.* The flashlight shall be a Type I or Type III flashlight constructed and marked in accordance with ASTM F1014-1986. Three spare cells and two spare bulbs, stowed in a watertight container, shall be provided with each flashlight. Batteries shall be replaced yearly during the annual stripping, cleaning, and overhaul of the lifeboats.

Note: Flashlights bearing a Coast Guard approval number may continue to be used in lifeboats and liferafts as long as they are in a serviceable condition.

PART 77—[AMENDED]

10. The authority citation for Part 77 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

11. In Part 77, § 77.01-3 is added to read as follows:

§ 77.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the *Federal Register* and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.

ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections affected—77.35-5(c).

12. In § 77.35-5 paragraph (c) is revised to read as follows:

§ 77.35-5 General.

(c) Flashlights shall be Type II or Type III, constructed and marked in accordance with ASTM F1014-1986.

PART 94—[AMENDED]

13. The authority citation for Part 94 is revised to read as follows:

Authority: 46 U.S.C. 3102(a), 3306; 49 CFR 1.46

14. In Part 94, § 94.01-3 is added to read as follows:

§ 94.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the *Federal Register* and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections effected—94.20-15(j).

Note: All other documents referenced in this Part are still in effect.

15. In § 94.20-15 paragraph (j) is revised to read as follows:

§ 94.20-15 Description of equipment for lifeboats.

(j) *Flashlight.* The flashlight shall be a Type I or Type III flashlight constructed and marked in accordance with ASTM F1014-1986. Three spare cells and two spare bulbs, stowed in a watertight container, shall be provided with each flashlight. Batteries shall be replaced yearly during the annual stripping, cleaning, and overhaul of the lifeboats.

Note: Flashlights bearing a Coast Guard approval number may continue to be used in lifeboats and liferafts as long as they are in a serviceable condition.

PART 96—[AMENDED]

16. The authority citation for Part 96 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

17. In Part 96, § 96.01-3 is added to read as follows:

§ 96.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections effected—96.35-5(c).

Note: All other documents referenced in this Part are still in effect.

18. In § 96.35-5, paragraph (c) is revised to read as follows:

§ 96.35-5 General.

(c) Flashlights shall be Type II or Type III, constructed and marked in accordance with ASTM F1014-1986.

PART 108—[AMENDED]

19. The authority citation for Part 108 is revised to read as follows:

Authority: 43 U.S.C. 1333(d); 46 U.S.C. 3306; 49 CFR 1.46.

20. In Part 108, § 108.101 is added to read as follows:

§ 108.101 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections effected—108.497(b).

Note: All other documents referenced in this Part are still in effect.

21. In § 108.497 paragraph (b) is revised to read as follows:

§ 108.497 Fireman's outfit.

(b) A Type II or Type III flashlight constructed and marked in accordance with ASTM F1014-1986.

PART 154—[AMENDED]

22. The authority citation for Part 154 is revised to read as follows:

Authority: 46 U.S.C. 3703; E.O. 12234, 3 CFR, 1980 Comp. p. 277; 49 CFR 1.46.

23. In § 154.1, paragraph (b) is amended by revising the third listing to read as follows:

§ 154.1 Incorporation by reference.

(b) *

American Society for Testing and Materials

1916 Race St., Philadelphia, PA 19103.
ASTM A20-1978 Steel Plates for Pressure
Vessels.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections effected—154.1400(a)(4),
154.1400(b)(4), 154.1400(c)(40).

Note: All other documents referenced in this Part are still in effect.

24. In § 154.1400, paragraphs (a)(4), (b)(4), and (c)(4) are revised to read as follows:

§ 154.1400 Safety equipment: all vessels.

(a) *

(4) Six Type II or Type III flashlights constructed and marked in accordance with ASTM F1014-1986.

(b) *

(4) Eight Type II or Type III flashlights constructed and marked in accordance with ASTM F1014-1986.

(c) *

(4) Three Type II or Type III flashlights constructed and marked in accordance with ASTM F1014-1986.

PART 160—[AMENDED]

25. The authority citation for Subpart 160.051 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

26. In Part 160, § 160.051-0 is added to read as follows:

§ 160.051-0 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections effected—160.051-7(c)(4), 160.051-7(d)(4).

Note: All other documents referenced in this Part are still in effect.

27. In § 160.051-7, paragraph (c)(4) and (d)(2) are revised to read as follows:

§ 160.051-7 Equipment.

(c) *

(4) **Flashlight.** A Type I or Type III flashlight constructed and marked in accordance with ASTM F1014-1986. Three spare cells and two spare bulbs, stowed in a watertight container, shall be provided with each flashlight. Batteries shall be replaced at each servicing of the liferaft.

Note: Flashlights bearing a Coast Guard approval number may continue to be used in lifeboats and liferafts as long as they are in a serviceable condition.

(d) *

(2) **Flashlight.** A Type I or Type III flashlight constructed and marked in accordance with ASTM F1014-1986. Three spare cells and two spare bulbs, stowed in a watertight container, shall be provided with each flashlight. Batteries shall be replaced at each servicing of the liferaft.

Note: Flashlights bearing a Coast Guard approval number may continue to be used in lifeboats and liferafts as long as they are in a serviceable condition.

PART 161—[AMENDED]

28. The authority citation for Part 161 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

§§ 161.008-1—161.008-8 [Removed]

29. Subpart 161.008 consisting of §§ 161.008-1—161.008-8 is removed.

PART 192—[AMENDED]

30. The authority citation for Part 192 continues to read as follows:

Authority: 46 U.S.C. 3102(a), 3306, 3703; 49 CFR 1.46, unless otherwise noted.

31. In part 192, § 192.01-3 is added to read as follows:

§ 192.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the section affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.
ASTM F1014-1986 Standard Specification
for Flashlights on Vessels.
Sections affected—192.20-15(j).

Note: All other documents referenced in this Part are still in effect.

32. In § 192.20-15 paragraph (j) is revised to read as follows:

§ 192.20-15 Description of equipment for lifeboats.

(j) **Flashlight.** A Type I or Type III flashlight constructed and marked in accordance with ASTM F1014-1986. Three spare cells and two spare bulbs, stowed in a watertight container, shall be provided with each flashlight. Batteries shall be replaced yearly during the annual stripping, cleaning, and overhaul of the lifeboats.

Note: Flashlights bearing a Coast Guard approval number may continue to be used in lifeboats and liferafts as long as they are in a serviceable condition.

PART 195—[AMENDED]

33. The authority citation for Part 195 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46

34. In Part 195, § 195.01-3 is added to read as follows:

§ 195.01-3 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the address indicated in paragraph (b).

(b) The material approved for incorporation by reference in this part, and the sections affected is:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103.

ASTM F1014-1986 Standard Specification for Flashlights on Vessels.
Sections affected—195.35-5(c)(2).

35. In § 195.35-5 paragraph (c) is revised to read as follows:

§ 195.35-5 General.

(c) Flashlights shall be Type II or Type III, constructed and marked in accordance with ASTM F1014-1986.

March 24, 1988.

J. W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 88-11081 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-14-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1047

[Ex Parte No. MC-189; Administrative Ruling No. 133]

Agricultural Commodities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This rule and accompanying administrative ruling simplify the composite list of exempt and non-exempt agricultural commodities under 49 U.S.C. 10526(a)(6) by eliminating redundant information contained in current Administrative Ruling No. 119. The promulgated rule and administrative ruling are set forth below and contain a composite list of those agricultural commodities that are specifically *not* exempt by statute under 49 U.S.C. 10526(a)(6).

EFFECTIVE DATE: This action will be effective June 17, 1988.

FOR FURTHER INFORMATION CONTACT:
Paul Grossman, (202) 275-7976

or

Richard B. Felder, (202) 275-7691. [TDD for hearing impaired (202) 275-1721.]

SUPPLEMENTARY INFORMATION: The exemption from regulation for the transportation by motor vehicle of certain agricultural and related commodities (49 U.S.C. 10526(a)(6)) is implemented in our regulations at 49 CFR 1047.25 and in the accompanying Administrative Ruling No. 119. The present regulation and administrative ruling are redundant and excessively lengthy because they attempt to list both exempt and non-exempt agricultural commodities as determined over the

course of many years by statute, formal Commission decisions, and informal rulings. The list is so specific and detailed that it is of little practical use.

With a view toward providing a more useful list, the Commission has amended 49 CFR 1047.25 and issued a new Administrative Ruling No. 133. Because the scope of the agricultural exemption is determined by statute, the new ruling contains a list of those agricultural commodities that have specifically been determined by statute to be non-exempt. This list includes all the commodities that were listed as not exempt in Administrative Ruling No. 107 (issued March 19, 1958), with required statutory modifications. Because the statute specifically incorporates this list by reference, publication of the list (as revised by subsequent statutory changes) will be much more useful to the public than the current listing. No substantive change is intended by this publication.

This publication is being issued in the form of a final regulation and administrative ruling, and no notice of proposed rulemaking has been published. Under section 553(b)(A) of the Administrative Procedure Act (APA), interpretive rules are exempt from the APA's notice and hearing requirements. Furthermore, we deem it unnecessary under section 553(b)(B) to provide for notice and hearing because this publication sets forth a previously adopted list of commodities that has been specifically incorporated into the statute.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (D.C. Metropolitan area), (assistance for the hearing impaired is available through TDD Services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

This action will not significantly affect either the quality of the human environment or energy conservation.

We conclude that the rule promulgated here will not have an adverse impact upon a significant number of small entities. The effect of the rule will not require the filing of reports or any recordkeeping. If anything, the rule will have a beneficial effect upon small entities because it will facilitate their determining whether the motor transportation of a commodity is exempt under the statute.

List of Subjects in 49 CFR Part 1047

Motor agricultural commodities, Livestock, Seafood.
Decided: May 5, 1988.
By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.
Noreta R. McGee,
Secretary.
Title 49 Part 1047 of the Code of Federal Regulations is amended as follows:

PART 1047—EXEMPTIONS

1. The authority citation for 49 CFR Part 1047 continues to read as follows:

Authority: 49 U.S.C. 10525, 10526, and 10931.

2. Section 1047.25 is revised to read as follows:

Partial Exemption for Agricultural Commodities, Livestock and Fish

§ 1047.25 Commodities that are not exempt under 49 U.S.C. 10526(a)(6).

Section 10526(a)(6) of the recodified Interstate Commerce Act (49 U.S.C. 10526(a)(6)) provides an exemption from regulation for motor vehicles used in carrying ordinary livestock, fish, and unmanufactured agricultural commodities. Certain specific commodities have been statutorily determined to be non-exempt. Administrative Ruling No. 133, which is reproduced below, is a list of those commodities that are non-exempt by statute.

Administrative Ruling No. 133

List of Commodities That Are Not Exempt by Statute Under 49 U.S.C. 10526(a)(6)

Animal fats
Butter
Canned fruits and vegetables
Carnauba wax was imported in slabs or chunks
Cattle, slaughtered
Charcoal
Cheese
Coal
Cocoa beans
Coffee, beans, roasted, or instant
Copra meal
Cotton yarn
Cottonseed cake or meal
Diatomaceous earth
Dinners, frozen

Feeds

Alfalfa meal
Alfalfa pellets
Beet pulp
Bran shorts
Copra meal
Corn gluten
Distilled corn grain residues, with or without solubles added
Fish meal

Hominy feed
Middlings
Pelletized ground refuse screenings
Wheat bran
Wheat shorts

Fertilizer, commercial

Fish

Canned or salted as a treatment for preserving
Cooked or partially cooked fish or shrimp, frozen or unfrozen
Hermetically sealed in containers as a treatment for preserving
Oil from fishes
Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned or kippered

Flagstone

Flaxseed meal

Flour

Forest products

Resin products, such as turpentine

Fruits and Berries

Bananas, fresh, dried, dehydrated, or frozen
Canned
Frozen
Hulls of oranges after juice extractions
Juice, fruit, plain or concentrated
Pies, frozen
Preserved, such as jam
Purees, strawberry and other, frozen

Grains

Oils extracted from grain
Popcorn, popped
Rice, precooked
Wheat germ

Gravel

Hair, hog or other animal, product of slaughter of animal

Hay, sweetened with 3 percent molasses by weight

Hemp fiber
Hides, green and salted
Insecticides
Limestone, agricultural

Livestock

Monkeys
Race horses
Show horses
Zoo animals
Lumber, rough sawed or planed
Maple syrup

Meal

Alfalfa
Copra
Cottonseed
Fish
Flaxseed
Linseed
Peanut
Soybean
Meat and meat products, fresh, frozen or canned

Milk and Cream

Chocolate
Condensed
Sterilized in hermetically sealed cans
Molasses

<i>Nuts (including peanuts)</i>		
Peanut meal	Soil, potting	Cooked
Roasted or boiled	Soil, top	French fried potatoes
Oil, mint	Soup, frozen	Oil, extracted from vegetables
Oil, extracted from vegetables, grain, seed, fish or other commodity	Sugar	Soup, frozen
Pelts	Sugar cane pulp	Soybean meal
Pies, frozen	Sugar raw	Wool imported from a foreign country
Pigeons, racing	Syrup, cane	Wool tops and noils
Pulp, beet	Syrup, maple	Wool waste (carded, spun, woven, or knitted)
Pulp, sugar cane	Tea	Wool yarn
Rock (except natural crushed, vesicular rock to be used for decorative purposes)	<i>Tobacco</i>	<i>Note 1:</i> Under 49 U.S.C. 10526(a)(6)(D), any listed fish or shellfish product that is not intended for human consumption is <i>exempt</i> .
Rubber, crude, in bales	Cigars and cigarettes	<i>Note 2:</i> Under 49 U.S.C. 10526(a)(6)(E), any listed livestock feed, poultry feed, agricultural seeds, or plants that are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production is <i>exempt</i>
Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added	Homogenized	
Sand	Smoking	
<i>Seeds</i>	Top Soil	
Oil extracted from seeds	<i>Trees</i>	
Skins, animal	Sawed into lumber	
	<i>Vegetables</i>	
	Candied sweet potatoes, frozen	[FR Doc. 88-11100 Filed 5-17-88; 8:45 am]
	Canned	BILLING CODE 7035-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

Disposal of Radioactive Wastes

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The NRC is publishing proposed amendments which require disposal of "greater-than-Class-C" low-level radioactive wastes in a deep geologic repository unless disposal elsewhere has been approved by the Commission. The proposed amendments obviate the need for altering existing classifications of radioactive wastes as high-level or low-level.

DATE: Comment period expires July 18, 1988. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESS: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: 1 White Flint North, 11555 Rockville Pike, Rockville, Md. between 7:30 a.m. and 4:15 p.m. Federal workdays, or to the NRC Public Document Room at the address and times below. Copies of the regulatory analysis and comments received may be examined at the NRC Public Document Room, 1717 H Street NW, Washington, DC, between 7:30 a.m. and 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: W. Clark Prichard, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3884.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 1987, the Nuclear Regulatory Commission published an

Advance Notice of Proposed Rulemaking (ANPRM) (51FR 5992), announcing its intent to revise the definition of the term "high-level radioactive waste" (HLW) that appears in 10 CFR Part 60. In the ANPRM, the Commission reviewed the previous statutory and regulatory uses of the term "high-level radioactive waste," the NRC's current regulations related to waste classification and disposal, and the pertinent provisions of the Nuclear Waste Policy Act of 1982, Pub. L. 97-425, 42 U.S.C. 10101 et seq. [NWPA]. As indicated in the ANPRM, the NWPA includes a specific definition of "high-level radioactive waste" and the Commission was considering a change to its own rules to conform to that definition.

In the ANPRM, the Commission proposed to define HLW in a manner that in general would apply the term "high-level radioactive waste" to materials in amounts and concentrations exceeding numerical values that would be stated explicitly in the form of a table. Thus, HLW would be characterized by the kind of hazard that could only be guarded against by disposal in a geologic repository or equivalent facility. Those wastes that could be disposed of safely in an "intermediate" disposal facility would continue to be classified as low-level radioactive waste rather than as HLW.

Comments

The Commission solicited comments on several specified issues and received letters from nearly 100 public agencies, private organizations, and individuals. Virtually all comments on the ANPRM agreed with the Commission on one point: use of the term "high-level radioactive waste," at least under Clause (B) of the NWPA definition, serves to identify those wastes which require the degree of isolation afforded by a deep geologic repository. However, comments differed widely regarding the specific wastes perceived to require that degree of isolation. Some comments advocated classification of all radioactive wastes, other than the most innocuous, as HLW while other comments would prefer to reclassify as low-level large quantities of defense reprocessing wastes long regarded as HLW. Conspicuously absent from the comments was any consensus regarding the means to be used by the

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Commission to distinguish HLW from non-HLW. For example, even the basic concept of a numerical definition of HLW, as suggested in the ANPRM, was criticized as an invitation to dilute or fractionate wastes solely to alter their classification. In light of the comments received, the Commission's own review of available technical information related to waste classification and "intermediate" disposal facilities, and review of relevant statutory proposals, the Commission has determined that it would be best to proceed quite differently from its original suggestion put forth in the ANPRM.

Reprocessing Wastes

The NWPA first labels as HLW, under Clause (A), the "highly radioactive material" resulting from the reprocessing of spent fuel, including not only the liquid wastes but also any solid material derived from such liquid waste that contains fission products "in sufficient concentrations." Clause (A) wastes have little significance for purposes of NWPA, since the Federal Government was already responsible for the disposal of all reprocessing wastes at the time the statute was passed. (The only commercially-generated reprocessing wastes were made a Federal Government responsibility in 1980 pursuant to the West Valley Demonstration Project Act. Pub. L. 96-368, 42 U.S.C. 2021a note.) In light of this fact, the Commission believes that the preferable construction of the statute is to conform to the traditional definition. Under this approach, materials that are HLW for purposes of the licensing-jurisdiction provisions of the Energy Reorganization Act of 1974 (ERA) will also be regarded as HLW under NWPA. This would include the primary reprocessing waste streams at DOE facilities, though not the incidental wastes produced in reprocessing.

Other Wastes

In the ANPRM the Commission proposed to classify wastes as HLW or non-HLW by examining the disposal capacity of hypothetical, "intermediate" disposal facilities less secure than a deep geologic repository. Wastes which could not be safely disposed of in such facilities would be classified as HLW.

Following publication of the ANPRM, a technical report (Kocher, D. C. and A. G. Croff, *A Proposed Classification System for High-Level and Other Radioactive Wastes*, ORNL/TM-10289, Oak Ridge National Laboratory, 1987) was published which attempted to provide a technical basis for classification of wastes as HLW or non-HLW. This report described a number of conceptual "intermediate" disposal facilities which would use either engineered barriers or deeper burial to provide a degree of waste isolation intermediate between that of shallow land burial and a deep geologic repository. The authors attempted an analysis of the waste isolation capability of such facilities but, emphasizing the site-specific nature of such analyses and the very large uncertainties involved, concluded that "[a]t the present time . . . [such facilities are] not sufficiently developed to provide a basis for defining waste classes, and disposal of any wastes using [such facilities] must be considered on a case-by-case basis." Kocher and Croff then presented an alternative approach for defining HLW which, in essence, is based solely on the short-term storage and handling risks associated with the heat and external radiation levels generated by a waste. The Commission could not accept this alternative approach since it bears no correlation to the degree of waste isolation required following disposal.

The Commission's review of Kocher and Croff's study leads it to the same conclusion regarding the impracticability of waste classification based on analyses of the performance of intermediate disposal facilities. If waste classification is to be at all realistic, additional disposal facility development must be completed which will provide a supportable basis for such classification. Such disposal facility development is more properly the responsibility of DOE rather than NRC. However, the very small volume (about 2,000 m³ through the year 2020) of commercially-generated, greater-than-Class-C (GTCC) wastes may make an intermediate disposal facility economically unattractive. Because no such facility now exists for disposal of commercially-generated wastes, and because there is no assurance that one will ever be constructed, the Commission believes that an alternative, technically conservative approach should be taken.

The Commission proposes to require disposal of all GTCC wastes in a deep geologic repository unless disposal elsewhere has been explicitly approved by the Commission. This proposal

reflects the Commission's view that intermediate disposal facilities may never be available, in which case a repository would be the only type of facility generally capable of providing safe disposal for GTCC wastes. At the same time, the Commission wishes to avoid foreclosing possible use of intermediate disposal facilities by the Department of Energy (DOE). If DOE chooses to develop one or more intermediate disposal facilities, the Commission anticipates that the acceptability of such facilities would be evaluated in the light of the particular circumstances, considering for example the existing performance objectives of 10 CFR Part 61 and any generally applicable environment radiation protection standards that might have been established by the U.S. Environmental Protection Agency. Technical criteria to implement the performance objectives and environmental standards would be developed by the Commission after DOE had completed its conceptual design and selected a site for a specific type of facility.

The Commission considers that the proposal presented in the notice would obviate any need to reclassify certain GTCC wastes as HLW. The proposal follows the alternative approach alluded to in the ANPRM, that the Commission "need not exercise NWPA Clause (B) authority in order to assure that radioactive wastes from licensed activities are disposed of properly" (52 FR 5998). Many comments on the ANPRM advocated classification of all GTCC wastes as HLW in order to ensure availability of a safe disposal "home" for those wastes, but this proposal achieves the same purpose while leaving open the prospect that an intermediate disposal facility may prove attractive at some time in the future. (Since the possibility of using such a facility is left open, the Commission is not now determining that the wastes, even if highly radioactive, do in fact "require permanent isolation"; accordingly, the NWPA definition of HLW does not apply). Moreover, this proposal avoids the problem of trying to distinguish HLW from non-HLW without an adequate technical basis for doing so. And the legal and administrative complications identified in the ANPRM, as well as questions as to the retroactive application of any new classification, would be avoided or reduced. However, additional legislation may be needed by DOE to provide for payment of disposal costs for above Class C wastes, or to authorize receipt of such wastes for disposal at a repository.

The Commission also observes that the statutory framework for nuclear waste matters has changed greatly since enactment of NWPA. When that law was passed, it placed a responsibility on the Federal government to receive, manage, and dispose of certain wastes (HLW as well as spent nuclear fuel) in geologic repositories. In that context, the definition of the term "high-level radioactive waste" assumed importance because it provided a basis for differentiating between State and Federal responsibilities. This concern was subsequently mooted by adoption of the Low-Level Radioactive Waste Policy Amendments Act of 1985, Pub. L. 99-240, 42 U.S.C. 2021b et seq. This later statute established a Federal Government responsibility for the disposal of commercially generated wastes with radionuclide concentrations exceeding the limits established in 10 CFR Part 61 for Class C radioactive waste. In view of this development, the Commission perceives little practical importance or significance in proceeding with a precise definition of HLW. To do so would not advance the objectives of NWPA.

Proposed Amendments

In line with the foregoing discussion, therefore, the Commission is proposing two changes to its existing rules. First, by amending 10 CFR 61.55, it would henceforth require all greater-than-Class-C waste to be disposed of in a geologic repository unless an alternative proposal is approved by the Commission. Second, the jurisdictional reach of 10 CFR Part 61 would be extended to cover all activities of the Department of Energy that may be subject to the licensing and regulatory authority of the Commission. This is intended to reflect the policy of the Low-Level Radioactive Waste Policy Amendments Act, which provides that all commercially-generated waste with concentrations exceeding Class C limits shall be disposed of in a facility licensed by the Commission that the Commission determines is adequate to protect the public health and safety. This change would take the form of eliminating the Department of Energy that appears in the definition of the term "Person" in § 61.2.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor an

environmental assessment has been prepared for this proposed regulation.

The first change, pertaining to the definition of "person," is corrective in that it merely reflects the broader jurisdiction of the Commission under the Low-Level Radioactive Waste Policy Amendments Act. The modification is not substantial.

The second change, pertaining to the disposal of greater-than-Class-C radioactive wastes in a geological repository, is minor. The existing regulations in 10 CFR Part 61 already preclude disposal of GTCC in a Part 61 licensed disposal facility without further review and approval. This amendment does no more than state the Commission's conclusion that, in the absence of such an approved alternative, a geologic repository is the only currently authorized facility acceptable for GTCC disposal without further review by the Commission. Thus, it is a minor change to specify that the "more stringent" methods are to include disposal in a repository, where it is also expressly provided that, as before, proposals for other methods of disposal may still be submitted to the Commission for approval. No substantial modification of existing regulations is involved.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0135.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis for this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Document Room, 1717 H street NW., Washington DC. Single copies of the draft analysis may be obtained from W. Clark Prichard, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3884.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)) and NRC Size Standards (December 9, 1985, 50 FR 50241), the Commission certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The only entity subject to regulation under this proposed rule would be the U.S. Department of Energy, which does not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act. All waste generators, some of which might be classified as small entities, must pay the costs associated with management and disposal of the wastes they generate. This proposed rule would not affect those costs since it preserves all options currently available for waste disposal. Only DOE's selection of a specific disposal technology from the full range of alternatives available would potentially have an economic impact on small entities.

Backfitting Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 61

Low-level waste, Nuclear materials, Penalty, Radioactive, waste, Reporting and recordkeeping requirements, Waste classification, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 61.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

1. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

For the purposes of Sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273); Tables 1 and 2, §§ 61.3, 61.24, 61.25, 61.27(a), 61.41 through 61.43, 61.52, 61.53, 61.55, 61.56, and 61.61

through 61.63 are issued under Sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); §§ 61.10 through 61.16, 61.24, and 61.80 are issued under Sec. 161a, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 61.2, the definition of "person" is revised in the alphabetical sequence to read as follows:

§ 61.2 Definitions.

As used in this part:

"Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (except that the Department of Energy is considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to law), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

3. In § 61.55, paragraph (a) is amended by revising paragraph (a)(2)(iv) to read as follows:

§ 61.55 Waste classification.

- (a) *
- (2) *

(iv) Waste that is not generally acceptable for near-surface disposal is waste for which waste form and disposal methods must be different, and in general more stringent, than those specified for Class C waste. In the absence of specific requirements in this part, such waste must be disposed of in a geologic repository as defined in Part 60 of this chapter unless proposals for disposal of such waste in a disposal site licensed pursuant to this part are submitted to the Commission for approval.

Dated at Rockville, MD, this 12th day of May, 1988.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-11138 Filed 5-18-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CE-RM-88-101]

Energy Conservation Program for Consumer Products; Advance Notice of Proposed Rulemaking and Request for Public Comments Regarding Energy Conservation Standards for Dishwashers, Clothes Washers, and Clothes Dryers

AGENCY: Department of Energy.

ACTION: Advance Notice of Proposed rulemaking.

SUMMARY: The Energy Policy and Conservation Act (EPCA), as amended by the National Energy Conservation Policy Act (NECPA) and the National Appliance Energy Conservation Act (NAECA), requires the Department of Energy to administer a program of energy conservation standards for 12 types of household appliances. This advance notice of proposed rulemaking addresses the requirement of EPCA to consider amending the energy conservation standards for dishwashers, clothes washers, and clothes dryers.

The purpose of this advance notice of proposed rulemaking is to: (1) Present for comment the product classes that DOE is planning to analyze; (2) present a detailed discussion of the expected analytical methodology and analytical models that the Department expects to use in performing the analysis to support this rulemaking; and (3) facilitate the gathering of information prior to publishing the notice of proposed rulemaking.

DATES: Written comments in response to this advance notice of proposed rulemaking must be received by the Department by July 18, 1988.

ADDRESSES: Written comments are to be submitted to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Energy Efficiency Standards for Consumer Products, Docket No. CE-RM-88-101, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9320.

FOR FURTHER INFORMATION CONTACT:

Dr. Barry P. Berlin, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-12, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507

SUPPLEMENTARY INFORMATION:

- I. Introduction
- a. Authority
- b. Background
- II. Methodology
- III. Models, Data and Assumption
 - a. Engineering Performance Models and Costing Analysis
 - 1. Appliance Classes
 - 2. Baseline units
 - 3. Design options
 - 4. Maximum technologically feasible designs
 - 5. Performance models
 - 6. Costing analysis
 - 7. Price—efficiency relationships
 - 8. Data sources
 - 9. Outputs from the Engineering Analysis
 - b. LBL Residential Energy Model (LBL-REM)
 - 1. Structure
 - 2. Housing stock submodel
 - 3. Efficiency choice algorithm
 - 4. Thermal integrity
 - 5. Modeling efficiency standards
 - 6. Turnover of appliance stocks
 - 7. Calculation of market shares
 - 8. Usage behavior
 - 9. Energy consumption calculations
 - 10. Model outputs
 - 11. Other consumer impacts
 - c. Manufacturer Impact Models
 - 1. Conceptual approach
 - 2. Measures of impact
 - 3. LBL Manufacturer Impact Model (LBL-MIM)
 - 4. Data sources
 - d. Utility Impact Model
 - e. Sensitivity Analyses
- IV. Comments
- a. Questions for Public Comment
- b. Comment Procedures

I. Introduction

a. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, and by the National Appliance Energy Conservation Act (NAECA), Pub. L. 100-12,¹ created the Energy Conservation Program for Consumer Products other than Automobiles. The consumer products subject to this program (often referred to hereafter as "covered products") are: refrigerators, refrigerator-freezers and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps;

water heaters; furnaces; dishwashers; clothes washers; clothes dryers; direct heating equipment; kitchen ranges and ovens; pool heaters; and television sets; as well as any other consumer product classified by the Secretary of Energy. See section 322. To date, the Secretary has not so classified any additional products.

Under the Act, the program consists essentially of three parts: testing, labeling, and Federal energy conservation standards. The Department of Energy (DOE or Department), in consultation with the National Bureau of Standards (NBS), is required to amend or establish new test procedures as appropriate for each of the covered products. Section 323. The purpose of the test procedures is to provide for test results that reflect the energy efficiency, energy use, or estimated annual operating costs of each of the covered products. Section 323(b)(3). A test procedure is not required if DOE determines by rule that one cannot be developed. Section 323(d)(1). Beginning one hundred and eighty days after a test procedure for a product is adopted, no manufacturer may represent the energy consumption of, or the cost of energy consumed by the product except as reflected in tests conducted according to the DOE procedure. Section 323(c)(2).

The Federal Trade Commission (FTC) is required by the Act to prescribe rules governing the labeling of covered products for which test procedures have been prescribed by DOE. Section 324(a). These rules are to require that each particular model of a covered product bears a label that indicates its annual operating cost and the range of estimated annual operating costs for other models of that product. Section 324(c)(1). Disclosure of estimated operating cost is not required under section 324 if the FTC determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. In such a case, FTC must require a different useful measure of energy consumption. Section 324(c). At the present time there are FTC rules requiring labels under the Act for the following products: room air conditioners, furnaces, clothes washers, dishwashers, water heaters, freezers, refrigerators, refrigerator-freezers and central air conditioners. 44 FR 66475, November 19, 1979, and 52 FR 46888, December 10, 1987.

For each of 11 of the covered products, the Act prescribes an initial Federal energy conservation standard. Section 325(b)-(h). The Act establishes

¹ Part B of Title III of EPCA as amended by NECPA and NAECA, is referred to in this notice as the "Act." Part B of Title III is codified at 42 U.S.C. 6291 et seq. Part B of Title III of EPCA, as amended by NECPA only, is referred to in this notice as NECPA.

effective dates for the standards in 1988, 1990, 1992 or 1993, depending on the product, and specifies that the standards are to be reviewed by the Department within three to ten years, also depending on the product. Section 325 (b) through (h). After the specified three- to ten-year period, DOE may promulgate new standards for each product; however, such standards may not be less stringent than those initially established by the Act. Section 325(1)(1).

The Act also directs DOE to review, for possible amendment, the energy conservation standards on dishwashers, clothes washers, and clothes dryers, and to issue a final rule no later than January 1, 1990, for units manufactured after January 1, 1993. Section 325(g)(4)(A).

The Act also permits the Department to prescribe standards for any other type of consumer product that, using certain criteria, DOE may classify as a covered product. Section 325 (i), (l) and (m). Any new or amended standard is required to be designed so as to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(1)(2)(A).

Section 325(1)(2)(B)(i) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a proposed standard. After reviewing comments on the proposal, DOE must then determine that the benefits of the standard exceed its burdens, based, to the greatest extent practicable, on a weighing of the following seven factors:

(1) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in this type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(6) The need for national energy conservation; and

(7) Other factors the Secretary considers relevant. In addition, the Act

specifies criteria for petitions to DOE in regard to amendments to standards. Section 325(k). Under the Act, any person may petition the Department to amend a Federal energy conservation standard for any covered product. Section 325(k)(1).

b. Background

NECPA required the Secretary, by rule, to prescribe energy efficiency standards for each of 13 covered products.² These standards were to be designed to achieve the maximum improvement in energy efficiency that was technologically feasible and economically justified.

NECPA provided, however, that no standard for a product was to be established if there were no test procedure for the product, or if DOE determined by rule either that a standard would not result in significant conservation of energy, or that a standard was not technologically feasible or economically justified. In determining whether a standard was economically justified, the Department was directed to determine whether the benefits of the standard exceeded its burdens by weighing the seven factors set forth above.

NECPA specified the priorities and procedures to be followed in adopting efficiency standards. Nine of the 13 covered products were given priority. These nine products were: refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment not including furnaces, kitchen ranges and ovens, and central air conditioners.

The DOE published an advance notice of proposed rulemaking for the nine first priority products on January 2, 1979. 44 FR 20. On December 13, 1979, the DOE published an advance notice of proposed rulemaking for dishwashers, television sets, clothes washers, and humidifiers and dehumidifiers. 44 FR 72276. An advance notice for central air conditioners (heat pumps) was published on January 23, 1980. 45 FR 5602.

After receiving comments on the advance notices, on June 30, 1980, DOE published its first proposed rulemaking for the nine products. 45 FR 43976. (Hereafter referred to as the June 1980 proposal.) The June 1980 proposal set forth DOE's proposed energy efficiency

standards for these covered products. It also proposed comprehensive requirements for certification and enforcement of the standards and procedures for processing petitions by States that sought exemption for regulations subject to the general preemption requirements of NECPA.

On April 2, 1982, DOE issued a further notice of proposed rulemaking with respect to the nine priority products. 47 FR 14424. (Hereafter referred to as the April 1982 proposal). With respect to eight of the products, DOE proposed to make a determination that a standard would not result in significant conservation of energy and would not be economically justified.³ The April 1982 proposal also proposed rules governing petitions to DOE both by States to obtain exemption from preemption of State or local energy efficiency standards, as well as by manufacturers to obtain preemption of State or local standards.

On December 22, 1982, DOE published a final rule in which DOE determined that efficiency standards were not warranted for clothes dryers and kitchen ranges and ovens. 47 FR 57198. (Hereafter referred to as the December 1982 final rule.) At that time, DOE also adopted final procedures by which States might obtain exemption for State or local efficiency standards from Federal preemption, and by which manufacturers might obtain preemption of a State or local standard not otherwise preempted.

On August 30, 1983, DOE published a final rule with respect to the remaining six covered products: refrigerators and refrigerator-freezers, freezers, water heaters, furnaces, room air conditioners and central air conditioners. 48 FR 39376. (Hereafter referred to as the August 1983 final rule). For each of the six products covered by the August 1983 final rule, except central air conditioners, DOE determined that an energy efficiency standard would not result in significant conservation of energy and would not be economically justified. With respect to central air conditioners, DOE found that an energy efficiency standard would result in significant conservation of energy, but would not be economically justified.

On April 1, 1985, DOE published a proposed rule with respect to four covered products: dishwashers,

² The consumer products covered by NECPA included: refrigerators and refrigerator-freezers; freezers; dishwashers; clothes dryers; water heaters; room air conditioners; home heating equipment not including furnaces; television sets; kitchen ranges and ovens; clothes washers; humidifiers and dehumidifiers; central air conditioners; and furnaces.

³ The April 1982 proposal did not propose any rule with respect to the product type "home heating equipment, not including furnaces" or with respect to that class of the product water heaters made up of heat pump water heaters or with respect to those classes of the product central air conditioners that are heat pumps.

television sets, clothes washers and humidifiers and dehumidifiers. 50 FR 12966. (Hereafter referred to as the April 1985 proposal). For each of the four products covered by the 1985 proposal, DOE proposed that an energy efficiency standard would not be economically justified and would not result in a significant conservation of energy.

During 1983, DOE's December 1982 and August 1983 final rules were challenged in a lawsuit brought by the Natural Resources Defense Council (NRDC) and others against the Department. On July 16, 1985, the U.S. Court of Appeals set aside DOE's December 1982 and August 1983 final rules. *NRDC v. Herrington*, 768 F.2d 1355 (D.C. Cir. 1985).

Consequently, on March 5, 1986, DOE published notices in the *Federal Register* removing the December 1982 and August 1983 final rules and withdrawing the April 1985 proposal. 51 FR 7549 and 51 FR 7582.

The National Appliance Energy Conservation Act (NAECA), which became law on March 17, 1987, amended EPCA in part by: redefining "covered products" (specifically, refrigerators/refrigerator-freezers, and freezers were combined into one product type from two; humidifiers and dehumidifiers were deleted; and pool heaters were added); establishing Federal energy conservation standards for 11 of the 12 covered products (with television sets being the exception); and creating a schedule for which these standard levels are to be reviewed to determine if they should be amended. The effective date of NAECA's standards for the three products being addressed in this ANOPR was January 1, 1988.

The Act directs DOE to publish an advance notice of proposed rulemaking (ANOPR), with a 60-day comment period, in advance of the Department's consideration of prescribing a new or amended standard. Section 325(m)(1). On December 7, 1987, DOE published such an ANOPR with respect to consideration of amending the NAECA-imposed standard levels on refrigerators, refrigerator-freezers, and freezers, of establishing a small gas furnace standard between 71 percent and 78 percent efficiency, and of considering energy conservation standards for television sets.

Publication of the final rule in the *Federal Register* for which this document is an advance notice is scheduled by January 1, 1990. The purpose of this rulemaking is to review, for possible amendment, the energy conservation standards for dishwashers, clothes washers, and clothes dryers, that have been established by the Act.

II. Methodology

This section provides a brief description of the analysis of the impacts of standards. It offers an overview of the analytic methodology, and discusses the major components of the analysis: the Engineering Analysis, the Manufacturer Analysis, and the Impact Analysis which includes the Consumer Analysis. The section also discusses the interrelationships among the components which ensure consistency throughout the analysis.

A later discussion, Impact Models, Data and Assumptions, describes the computer models used in the analysis. The models predict the response of consumers, manufacturers, and utilities to future changes in the economy, including the imposition of energy conservation standards. Quantitative estimates of the impacts of standards will be calculated from the outputs from the models. The models that will be utilized in the analysis are:

- Engineering Performance Models.
- Consumer Impact Models.
- Manufacturer Impact Models.
- Utility Impact Model.

The function, data sources, assumptions and validity of the results for each model are discussed below.

The impact of appliance conservation standards will be determined by comparing projections under the base case,⁴ with the projections under potential standards. These projections will first be made for a base case by use of the analytic models described below. The calculations will then be repeated imposing the potential standard levels.

The differences between the projections of the energy consumption and economic variables in the base and standards cases provide quantitative estimates of the impacts of the standards. To evaluate the significance of the differences, a sensitivity analysis will be performed on the key parameters and assumptions.

The economic analysis will be performed in the following areas:

- An Engineering Analysis, which establishes the technical feasibility and product attributes including costs of design options to improve appliance efficiency.
- A Manufacturer Analysis, which provides an estimate of manufacturers' response to the proposed standards. Their response is quantified by changes in several financial performance measures.

⁴ The base case assumes implementation of the conservation standards that were set by the Act.

- A Consumer Analysis, which forecasts appliance sales, efficiencies, energy use, and consumer expenditures.

- A separate Life-Cycle Cost Analysis to evaluate the savings in operating expenses relative to increases in purchase price.

- A Utility Analysis that measures the impacts of the altered energy-consumption patterns on electric utilities.

- An Industry Impact Analysis that provides the financial and competitive impacts on the appliance industry.

- A Cost-Benefit Analysis that collects the results of all the analyses into the net benefits and costs from a national perspective.

Each analysis area will be performed for each of the three products under consideration. The results of the Engineering Analysis will be reviewed by DOE to determine whether standards for each product could yield measurable energy savings. If standards would not yield energy savings, for example, if there is no combination of design options that would result in improved product efficiency, the analysis will be terminated. If energy savings are possible, then a detailed analysis is performed. For dishwashers, clothes washers and clothes dryers, the analysis will be performed for a base case plus three levels of standards. The levels to be analyzed will be selected after the Engineering Analysis is completed and reviewed.

There is interaction among the Engineering, Consumer, Utility and Manufacturer Analyses. The Engineering Analysis establishes appliance designs and related attributes such as efficiency and costs. Based on the relationships between the prices and efficiencies of design options, the Consumer Analysis forecasts sales and efficiencies of new and replacement appliances. These data are used as inputs to the Manufacturer Analysis, which uses them to determine the financial impacts on prototypical firms within the industry. The Consumer Analysis also forecasts energy savings and consumer expenditures on the purchase and operation of the appliances. Consumer expenditures (both purchase and operation) are employed in the Life-Cycle Cost Analysis to determine consumer impacts. Changes in sales, revenues, investments, and marginal costs of utilities are calculated from the energy savings in the Utility Analysis.

Three periods of time are considered by the analysis. First, the analysis extends over a time period that is consistent with the lifetimes of each of

the products. Second, the Manufacturer Analysis is performed for a typical year after the standards have been imposed. The typical year selected is the fifth, by which time all major impacts of a standard would have occurred. Third, the Engineering Analysis examines the technical feasibility of improving the efficiency of the covered products before the standards are effective—within the next three to five years.

III. Models, Data and Assumptions

a. Engineering Performance Models and Costing Analysis

The Engineering Analysis addresses two statutory requirements. The first requirement is the Department's evaluation of the maximum improvements in energy efficiency that are technologically feasible. The second relates to the lessening of utility to the consumer of any of the covered products due to the imposition of standards. In addition, the Engineering Analysis provides information on efficiencies, manufacturing costs, and appliance prices to other components of the overall analysis.

The features of appliances that provide utility to the consumer are incorporated into the analysis through the creation of appliance classes. Classes are a subset of appliance types. For example, clothes washers comprise an appliance type, while front-loading washers comprise an appliance class. The Engineering Analysis develops cost and efficiency data for a set of design options within each appliance class. These data are the output of the engineering performance models and costing analysis discussed in subsections 5-9, below.

1. Appliance Classes

The first step in the Engineering Analysis is to segregate product types into separate classes to which different energy conservation standards apply. Classes are differentiated by the type of energy use (oil, natural gas or electricity), or capacity or performance-related features that provide utility to the consumer and affect efficiency. Classes are differentiated in order to ensure that consumer products having different capacities or other performance-related features affecting efficiency and utility remain available to consumers.

For each of the three appliances, the following are the classes that the Department plans to review. DOE welcomes comments, in response to today's notice, on whether additional classes are needed.

(i) *Dishwashers*. The following are the classes of dishwashers that the Department is proposing to examine:

Compact Dishwasher
Standard Dishwasher
Water Heating Dishwasher, Compact (115V)
Water Heating Dishwasher, Standard (115V)
Water Heating Dishwasher, Compact (230V)
Water Heating Dishwasher, Standard (230V)

Compact dishwashers use less water and energy than standard size dishwashers. While standard size dishwashers have an exterior width greater than or equal to 22 inches, compacts have an exterior width less than 22 inches.⁴⁴

Water-heating dishwashers have the ability to heat incoming hot water. Water-heating dishwashers allow for a lower inlet water temperature since they can operate at that temperature by providing internal water heating in at least one wash phase.

(ii) *Clothes Washers*. Six classes of clothes washers are specified in this notice. These are:

Front Loading
Suds Savers
Top Loading, Compact
Top Loading, Standard
Top Loading, Large
Top Loading, Semi Automatic

Front loading washing machines use less water than top loaders; since most of the energy used by a clothes washer is for heating water, front loaders, by using less water, consume less energy. On the other hand, top loaders spin the clothes dryer. Suds savers can reuse suds and warm water from an earlier wash by pumping them back into the washer; therefore, less energy is used since less water is heated.

The Department is planning to divide top loading washers into three classes by capacity: compact (1.6 cubic feet, or less), standard capacity (1.6 to 2.59 cubic feet), and large capacity (2.6 cubic feet, or greater) since the size of the unit affects the amount of water used and, in turn, the amount of energy used. In addition, a separate class for semi-automatic clothes washers is specified, since the Department has estimated higher hot and warm water usage for semi-automatic than for fully automatic clothes washers.

(iii) *Clothes Dryers*. Five classes of clothes dryers are specified in this notice. These are:

Electric, Standard
Electric, Compact (120V)
Electric, Compact (240V)
Gas, Standard
Gas, Compact

These classes are distinguished by different energy sources and by performance-related features. Gas and electricity are the energy sources. The performance-related features include drum capacity and application voltage.

Class distinctions were considered based on the type of control used to end the drying cycle but are not being proposed. The three types of control systems are: (1) a present time control, (2) an automatic temperature-sensing control, and (3) an automatic moisture-sensing control. The energy efficiency for a dryer is related to these controls. However, product classes based on these controls were not established because: (1) the test procedure accounts for effects of controls with a field use factor, which gives efficiency "credits" for automatic controls; and, (2) the Department does not believe that automatic controls provide utility to the consumer.

Product classes were established for electric dryers based on drum capacity and application voltage. The test procedures specify two sizes of drum capacity. These are: (1) compact, electric dryers with a drum capacity of less than 4.4 cubic feet and (2) standard electric dryers with a drum capacity of 4.4 cubic feet or more. The compact dryers tend to be less energy-efficient than the standard dryers. Also, since compact dryers provide utility—they are suitable for small spaces—a separate class was established for them.

Separate product classes were established for compact electric dryers, based on appliance voltage. The 120-volt dryer tends to dry clothes at lower temperatures and for longer time periods than the 240-volt dryer. In general, the 240-volt dryer is less energy-efficient, because, by operating at higher temperatures (even for shorter time periods), it consumes more energy per load. Many consumers feel that the 120-volt dryer has utility because it can be installed anywhere, while the 240-volt dryer must be near a 240-volt outlet. Since the 240-volt compact electric dryer is less energy-efficient and provides utility to consumers, a separate product class was established for it.

A clothes dryer's efficiency is related to its drum capacity. Larger drums have a higher thermal capacity and, therefore, require more energy to reach a desired temperature than do smaller drums. Since the test procedure uses a fixed load size, independent of drum size,

⁴⁴ These definitions of "standard" and "compact" differ from the definitions in the Federal Trade Commission's Appliance Labeling Regulations, where a "standard" size dishwasher is defined as one capable of cleaning 8 place-settings at a time. Therefore, some dishwashers that the FTC classifies as "standard" would be classified as "compact" by these proposed classes.

larger capacity dryers use more energy per pound of clothes, as measured by the test procedure. In addition, the air flow through the tumbling clothes is affected by the ratio of the load size to the drum size. If small loads are used in large drums, the air tends to bypass the clothes, increasing the energy required to dry the test loads. Using the same test load for all sizes of standard dryers means smaller capacity standard dryers have higher energy efficiency (as measured by the test procedure) than large capacity standard dryers.

Relationships between efficiency and capacity were derived from data submitted by individual manufacturers. Testimony submitted by industry on the June 1980 proposal indicated that gas units would have the same relationship between efficiency and capacity as electric ones do. Data from these sources all indicated a distinct negative relationship between capacity and efficiency for standard size electric units; that is, the larger the drum size, the lower the efficiency. The same relationship was assumed for electric and gas units. For compact units, the available data were inconclusive about the relationship between efficiency and capacity. In some cases, as capacity increased, efficiency increased; in other cases, the opposite relationship existed. In any case, the extent of the relationship was small. Therefore, the standard for compact dryers was assumed to be independent of capacity.

2. Baseline Units

For the purpose of generating a cost/efficiency relationship the Engineering Analysis needs to define a starting point or baseline. The Engineering Analysis uses information gathered from trade organizations, manufacturers, and consultants with expertise in specific product types to select a baseline unit. In past analyses a baseline unit represents a typical model within an appliance class sold during the base year of the analysis. For this analysis, DOE intends to use the same baseline units as in the April 1982 (for clothes dryers) and April 1985 (for dishwashers and clothes washers) proposals.⁵ Once identified, each baseline unit is characterized by its efficiency-related design options.

3. Design Options

The Engineering Analysis will identify individual or combinations of design

options with a potential for improving energy efficiency. Design options that are currently on the market or that are likely to be on the market by the time standards are effective January 1, 1993, will be considered.

The following is a list of design options that will be examined:

- (i) Dishwashers
 - (A) Improved Food Filters
 - (B) Improved Spray Arm Geometry
 - (C) Improved Fill Control
 - (D) Modified Sump Geometry
 - (E) Optional Power Dry
 - (F) Reduced Inlet Water Temperature
 - (G) Improved Motor Efficiency
 - (H) Increased Insulation
- (ii) Clothes Washers
 - (A) Eliminate Warm Rinse
 - (B) Improved Fill Control
 - (C) Water Use Reduction From Changed Configuration
 - (D) Reduced Thermal Mass
 - (E) Saved Suds
 - (F) Added Insulation
 - (G) Improved Motor Efficiency
 - (H) Thermosetically-Controlled Mixing Valves
 - (I) Electrolytic Dissociation of Water
 - (J) Ultrasonic Vibration
- (iii) Clothes Dryers
 - (A) Automatic Termination by Moisture Sensing
 - (B) Automatic Termination by Temperature Sensing
 - (C) Added Insulation
 - (D) Condenser Use
 - (E) Recycle Heat Exchanger Use
 - (F) Inlet Air Preheat
 - (G) Modified Operating Conditions
 - (H) Heat Pump Use
 - (I) Microwave Dryer Use

4. Maximum Technologically Feasible Designs

The analysis also will identify the combination of design options in each class that DOE believes would yield the highest efficiency and could be commercially produced by the time standards are effective. This represents the maximum technologically feasible efficiency level.

5. Performance Models

Computer simulation models will be used to determine efficiency levels for various design options for dishwashers, clothes washers, and clothes dryers. The energy consumption of these appliances is based on data collected by DOE, including measured performance data obtained from manufacturer testing.

6. Costing Analysis

The manufacturer cost data are being obtained through a process that includes meetings and evaluation of manufacturing facilities, manufacturers' costing data, and review of the data

received. The cost data that will be presented for each product class will represent the average of figures obtained from at least two different sources. It will be in the form of incremental cost data disaggregated into labor, purchased parts, materials, shipping/packaging and tooling.

7. Price-Efficiency Relationships

The results of the Engineering Analysis are summarized in the price-efficiency relationships that show the efficiency, unit energy consumption, and cost of each design option, and combination of design options, for each appliance class. Manufacturer and dealer markups are applied to the manufacturing costs to determine the purchase price of the appliance. The price-efficiency relationships are a fundamental input to the Consumer Analysis.

8. Data Sources

Shipments data will be based on information from industry sources and published data from industry trade associations. Cost of purchased materials and parts will be based on quotations from the suppliers of these items. Data on engineering and labor costs are to be taken from on-site visits to manufacturing plants and published sources.

9. Outputs From the Engineering Analysis

For each combination of design options considered, the models and data provide:

- Energy efficiency (expressed as the DOE energy factor);⁶
- Increased material, purchased parts, labor, and investment costs for medium⁷ and large manufacturers by product class;
- Annual energy consumption per unit (based on DOE test procedures);
- The relationship between price and efficiency level by product class; and
- Other information on product characteristics, such as maintenance costs.

b. LBL Residential Energy Model (LBL-REM)

Early energy demand modeling focused on engineering estimates or on

⁵ See Consumer Products Efficiency Standards Engineering Analysis Document, March 1982, DOE/CE-0030 and Technical Support Document Energy Use Projections for Four Consumer Products, DOE/CS/20315-1, March 1985.

⁶ The energy factor is a measurement of energy efficiency derived from the DOE test procedure for that product.

⁷ As was the case with the April 1982 proposal, small manufacturers will not be analyzed separately. No general manufacturing approach could be identified for these firms because of the wide variability in their approach to manufacturing. Therefore, small manufacturers costs have been assumed to equal those of medium manufacturers.

the relationship between energy consumption and economic growth. In the 1970's, Oak Ridge National Laboratory (ORNL) developed the first model to integrate these two important aspects, the Engineering-Economic Model of Residential Energy Use (ORNL Model). That model was brought to Lawrence Berkeley Laboratory (LBL) in 1979, and adapted to the analysis of Federal appliance efficiency standards. The ORNL Model used in the earlier rulemakings has been documented in the Consumer Products Efficiency Standards Economic Analysis Document, DOE/CE-029, March 1982. The ORNL Model has been updated by LBL, resulting in the LBL Residential Energy Model (LBL-REM) which is summarized below.

The LBL-REM forecasts the appliance purchase choices that households make, as well as their subsequent appliance usage behavior and energy consumption. The model uses engineering estimates of the characteristics of particular designs of appliances, and calculates the national impacts of a technology-specific policy on the populations of appliances used in the households. The engineering data provide alternative designs, characterized by purchase price and efficiency, that are available for purchase. The output from the LBL-REM satisfies the legislative requirements regarding energy savings and consumer economic impacts (operating expenses and life-cycle costs).

Engineering, economic, and demographic data are used in the LBL-REM. The engineering data for appliances are described above. Additional data include engineering data regarding alternative building shell construction measures and costs, unit energy consumption and efficiency of existing appliances, age distribution of existing appliance stock, and retirement functions. Economic data includes projected energy price⁸ and household income, and models of energy investment, appliance purchase and usage behavior, including fuel and technology choice for each end-use. Demographic data includes number of households by type, projected housing starts and demolitions, and initial appliance holdings.

1. Structure

The LBL-REM segments annual energy consumption into house types, end-uses, and fuel types. The house types are single family, multifamily, and

mobile homes. Calculations are performed separately for existing and new housing construction each year over the period, 1980-2015. The end-uses are space heating (including room and central), air conditioning, water heating, refrigeration, freezing, cooking, clothes drying, lighting, and miscellaneous. Up to four fuels are considered, as appropriate to each end-use: electricity, natural gas, heating oil, and LPG. The model exists in two versions: national (one region), and regional (10 Federal regions). Since usage of these appliances is not likely to differ by geographic location, the national version will be utilized in this analysis.

The model projects five types of activities: technology/fuel choice; building shell thermal integrity choice; appliance efficiency choice; usage behavior; and turnover of buildings and appliances.

2. Housing Stock Submodel

This submodel prepares data about housing stock projections for the LBL-REM. The number of occupied households, by type, is taken from the 1980 Censuses of Population and Housing. An exogenous projection of housing starts is obtained and estimates of projected demolition rates by house type are calculated, assuming an exponential function. The housing submodel determines the projected housing stock each year, 1981-2015, by subtracting demolitions from existing stock, then adding starts. The annual demolition rates by house type will be calculated for single family, multifamily, and mobile homes, respectively.

3. Efficiency Choice Algorithm

For dishwashers, clothes washers, and clothes dryers, historical efficiency data are available for selected years for each class of appliance through 1985. The Federal energy conservation standards for new units of these appliances were met in 1988. After 1988, future efficiency improvements are assumed to be a function of designs available (according to the engineering analysis) and of relevant energy prices. DOE believes the forecasting algorithm is designed to allow annual shipment-weighted efficiency factors (SWEFs) to increase if either more efficient designs become available at lower prices, or energy prices increase. Conversely, if energy prices decrease, the SWEF may decline, but would have a lower bound at the 1988 Federal standard level.

4. Thermal Integrity

The projection of the level of investment in thermal integrity measures in new houses is based on a

life-cycle cost calculation, analogous to that done for equipment efficiencies.⁹ Estimates of the incremental costs of thermal integrity measures are used in conjunction with current fuel prices and a discount rate.

5. Modeling Efficiency Standards

The LBL-REM projects the average efficiency of new products, for example, dishwashers, purchased each year, in the absence of additional Federal regulations. A distribution of efficiencies is constructed around the average, based on efficiency distributions observed in the marketplace. This information includes information from industry sources, published data from the industry trade associations and industry-wide data obtained from Form CS-179.¹⁰ A new Federal standard level would eliminate part of the distribution; therefore, a new distribution is constructed. The new shipment-weighted average efficiency then characterizes the efficiency of new units in that year. The same process is applied to all years after implementation of the standard. The model is then run again, for the standards case, with the adjusted average efficiencies, to calculate any changes in market shares, usage behavior, or investment in building shell thermal improvements that may occur due to standards, and to calculate the net energy savings.

6. Turnover of Appliance Stocks

The initial age distribution of appliances in stock is characterized based on industry data about historical annual shipments. The fraction of each product that retires each year is based on the number of years since purchase of the product. For each year's purchase the model associates an average efficiency, so that when older appliances are retired, they are also recognized as less efficient.¹¹

The number of potential purchasers of an appliance in new homes is equal to the number of new homes constructed each year. The number of potential purchasers of appliances in existing houses is equal to the number of retiring appliances, plus some fraction of those households that did not previously own the product.

⁸ The projections of energy prices will be taken from the most recent *Annual Energy Outlook*, a publication of the Department's Energy Information Administration.

⁹ Survey of Consumer Product Manufacturers through Trade Associations in 1979.

¹⁰ See Consumer Products Efficiency Standards Economic Analysis Document, DOE/CE-0029, March 1982, pp. 412-13.

7. Calculation of Market Shares

Potential purchasers may purchase any competing technology within an end-use, or none. For example, for dishwashers, the decision to purchase or not is modeled, and the fraction of the total that chooses each class, e.g., compact, is specified exogenously. For dishwashers, long-term market share elasticities have been estimated with respect to equipment price, operating expense, and income respectively. The effect of standards is expected to be lower operating expense and increased equipment price. The percentage changes in these quantities are used, together with market share elasticities, to determine changes in market share resulting from standards. The model assumes that higher equipment cost will decrease market shares, while lower operating expense will increase market shares. The net result (predicted market share) depends on the standard level selected, and associated equipment price and operating expense.

8. Usage Behavior

For some products, changing the operating expense results in changes in usage behavior. These changes are modeled using usage elasticities in operating expense and income. For dishwashers, clothes washers, and clothes dryers, we expect these elasticities to be at or near zero; usage behavior is not influenced by the cost of operating the appliance. The Department will appreciate any comments on this assumption.

9. Energy Consumption Calculations

The total energy consumption per house for each end-use and fuel by house type and vintage (existing or new) is the product of the unit energy consumption (accounting for efficiency and capacity changes), and usage factor, e.g., relative hours of full-load use for dishwashing. The corresponding energy consumption for all households is the consumption per house times the number of households of that type and vintage, times the fraction of those households owning that appliance.

Aggregate energy consumption is obtained by summing intermediate results. For example, national electricity consumption for residential dishwashing in a particular year is the sum of house types and vintages of standard electric dishwashers, compact ones, and the various classes of water-heating dishwashers. National residential electricity consumption in that year is the sum of all end-uses of electricity consumption in the residential sector.

10. Model Outputs

The principal outputs from the LBL-REM for each year are:

- Energy consumption by end-use and fuel.
- Per unit equipment price and operating expense by product.
- Total residential energy consumption by fuel.
- Projected annual shipments of residential appliances.
- Differences in these quantities between a base and a standards case.

These outputs are provided annually (or for selected years) and cumulatively over a period of time, e.g., 1990–2015. Energy savings are provided annually from implementation of standards to the end of the period. Net present value of standards is evaluated for each regulated product, and for the end-use(s) comprising the regulated and competing products.

Energy savings are calculated as the difference in energy consumption between the base case and standards case. Energy consumption in both the base case and standards case includes building shell improvements, changes in fuel choice, or changes in usage behavior. Therefore, the energy savings capture the net energy savings due to regulation, including the effects induced by shifts in market share or changes in usage behavior.

Net present value, on the other hand, excludes these types of effects.¹² Net present value is calculated from per unit changes in equipment and operating costs, multiplied by base case shipments. If the net present value were calculated without normalizing to base case shipments, erroneous results would be obtained: if standards caused decreased purchases of a product, this would appear an economic benefit, namely less money spent on purchasing and using appliances;¹³ and if

¹² Present value is the discounted total value of energy consumption during the appliances' lifetimes, plus the discounted equipment costs for those appliances that are purchased during those periods, at alternative standards levels. The difference between each of the two cases is the net present value (NPV) attributable to standards (or amended standards). A positive NPV for an appliance at a given standard level indicates that, if that standard were adopted, consumers of that appliance as a whole would save that much more money in fuel costs, discounted to the present, than they would pay in increased first cost for a more efficient appliance, discounted to the present, compared to the base case.

¹³ Without normalization, the greatest economic benefit would be obtained by a standard level that resulted in no future purchases of the product. Then no money would be spent on purchasing the product, or on operating expenses, and the value of the savings would equal the amount of money that would have been spent without the standard. This would clearly be a misrepresentation of the net present value of standards.

standards resulted in increased purchases, this would be incorrectly counted as a cost, when it reflects consumers' preference for the post-standards product.

Base case usage is assumed in calculating the net present value, since any "rebound effect"¹⁴ reflects the consumer's judgment that increased usage is worth more than the direct energy savings associated with keeping usage constant. Therefore, deduction of any foregone energy savings resulting from a possible "rebound effect" prior to calculating the net present value, would result in an underestimate of the true net present value associated with a given efficiency improvement.

11. Other Consumer Impacts

One measure of the effect of standards on consumers is the change in operating cost as compared to the change in purchase price. This is quantified by the difference in life-cycle cost between the base and standards case for the appliance classes analyzed. The LCC is the sum of the purchase price and the operating cost discounted over the lifetime of the appliance. It will be calculated at the average efficiency for each class in the year standards are imposed using consumer discount rates of five, seven, and ten percent. The purchase cost is based on the factory costs in the Engineering Analysis and includes a factory markup plus a distributor and retailer markup. The operating cost is calculated from the unit energy consumption derived in the Engineering Analysis adjusted for differences in usage, i.e., operating load hours, between the test procedure and the LBL Residential Energy Model. Projected energy efficiencies and usages are taken from the results of LBL-REM.

Two other measures of economic impact are useful in evaluating the impacts on consumers. The payback period measures the amount of time it takes to recover, through lower operating costs, the additional expenditure on increased efficiency. Numerically, it is the ratio of the increase in first cost between the base and standards cases to the decrease in annual operating costs. Both the

¹⁴ The "rebound effect" is the projected energy savings (from an efficiency improvement) that does not occur. This results when purchasers of more energy efficient appliances use them more intensively, thereby saving less energy than the engineering estimates would have indicated. Empirical studies indicate that approximately 15 percent of the potential energy savings is thus not achieved. Therefore, in calculating energy savings, the LBL-REM assumes that only 85 percent of the savings that are indicated by engineering estimates will actually be achieved.

numerator and denominator of this expression are evaluated at the average efficiency in the year standards come into effect and at the energy prices in that year. The cost of conserved energy is the increase in first cost amortized over the lifetime of the appliance at the consumer discount rate divided by the annual energy savings. The consumer will benefit whenever the cost of conserved energy is less than the price of energy for that end use.

c. Manufacturer Impact Models

1. Conceptual Approach

The Manufacturer Impact Analysis estimates both the overall impact of new or amended standards on manufacturers as well as the distribution of effects among different manufacturers.

2. Measures of Impact

The analysis examines three types of long-run impact: profitability; growth; and, competitiveness. To do this, three measures of impact are tracked for the industry as a whole and for any segments that may exist. The three impact variables are: return-on-equity (ROE); assets; and labor.

ROE provides the primary measure of profitability, although gross margin, return-on-assets (ROA), and return-on-sales (ROS) are also reported. Assets and labor provide the measures of growth (positive or negative). The impact on competitiveness is analyzed by looking at the relative changes in growth and profitability for large and small firm segments.

Two short-run impacts are also analyzed. First, the ability for the industry as a whole and for specific segments of the industry to provide the one-time investments required to meet the new standard is examined. These expenditures are compared to available cash and to their historical variation. Second, if standards result in decreased sales for the particular industry being analyzed, the possibility of a price war in the time period when the industry is adjusting to a lower sales volume is examined.

3. LBL Manufacturer Impact Model (LBL-MIM)

In order to estimate the impacts of energy efficiency standards a computer spreadsheet model, the Lawrence Berkeley Laboratory Manufacturer Impact Model (LBL-MIM), was developed.

The LBL-MIM uses a "typical year" approach rather than a dynamic approach. This approach models a "typical year" for the industry both in the modified standards case and in the

existing-standards case. The typical year chosen for the model is the fifth year after the imposition of standards. Five years is considered long enough to capture any major impacts from the standard, such as profitability changes or firm entry into or exit from the industry.

Ideally, a manufacturer analysis should look at the impact of a proposed regulation on every firm that does business in the industry under question. However, because the industries being analyzed have many manufacturers making a particular product, a firm-by-firm analysis would be a very expensive undertaking. In addition, the engineering and financial data for most manufacturing firms are proprietary and are not routinely available for public analysis. Because of these limitations on data and resources, the analysis estimates the impact of the standards by using prototypical firms.

A prototypical firm is a hypothetical firm representative of a particular portion of an industry. The goal of defining the prototypical firms is to characterize firm-to-firm variations in the industry as best as possible. Prototypical firms are defined in terms of parameters that have importance in determining the level of impact and are consistent with industry data for that particular portion of the industry. Important parameters used in the model include the cost and marketing strategies.

An important simplifying assumption of the LBL-MIM is that each prototypical firm offers products to several different markets. The product offerings are generally differentiated by using the product classes established by the Act. Different markets are defined in terms of the technological characteristics of the products, e.g., standard size or compact dishwashers. At times, this market segmentation plays an important role in determining a firm's profits. Generally, appliance manufacturers are thought to be able to charge different markups for different products. Firms are able to charge higher markups on products that have desirable characteristics. Products on the low end of this spectrum are generally bought in larger quantities at lower prices by consumers who are more highly price conscious, and thus the markups for these products are lower. The per unit profits made by manufacturers for these different products may differ significantly. The model incorporates this market reality by allowing firms to charge different markups on different products.

The model sets product prices in the modified standards case in two stages.

In the first stage the price is computed by assuming that the industry's gross margin remains unchanged under the new standards. This is the pricing rule most often referred to by the industry.

Stage two drops the assumption of a constant gross margin, and instead assumes that firms face a downward sloping demand curve and set price to maximize profit. Economic theory states that this is done by setting price equal to the long-run marginal cost (LMC) times a markup that depends only on the elasticity of the demand curve. Stage two begins by dividing costs into long-run fixed costs and LMC, and then estimating the firm's markup. Before using the markup, a new LMC is computed which includes any additional unit variable costs and the variable part of leveled capital and engineering costs. Once the new LMC is computed, this figure is multiplied by the markup factor to determine the new price.

A change in standard level affects the analysis in three distinct ways. Increased levels of standards will require additional investment, will raise production costs, and will affect revenue both through price and demand.

The most obvious investment induced by standards is the purchase of new plant and equipment. This cost first is evaluated from engineering data, and then averaged by taking into account the life of the investment, the date on which it is made, tax laws, and the appropriate cost of funds. An additional and sometimes larger investment takes place as the old inventory is replaced with more expensive new units. The model assumes previous inventory ratios are maintained. A third form of investment tracked by the model is the change in the transactions demand for cash that accompanies a change in revenues.

Increased costs of production are modeled by coupling engineering data on changes in unit costs caused by standards with data from LBL-REM on the marketplace demand of the product.

Revenue is affected by both price and shipments. Price is computed from costs in two stages. First, a constant gross margin pricing rule is used. Then a markup over long-term marginal costs is computed and used to determine an optimal price. Demand is determined by measured price and operating cost elasticities, coupled with the changes in price and operating costs resulting from the standards.

The LBL-MIM produces several outputs used in analyzing the impact of standards on manufacturers. A simplified pro forma income statement is prepared for each prototypical firm. In addition to the income statement, the

outputs present four measures of performance: gross margin, return on sales, return on total assets, and return on equity. The results are presented for the without-standards case and the with-standards case, and the relative difference between the two is also given. Another output table analyzes the source of changes in income, expenses, and assets from an economic point of view, while a third output table analyzes price and profitability changes under the two pricing scenarios mentioned above.

4. Data Sources

The LBL-MIM needs data that characterize both a particular industry and prototypical firms within that industry. Estimates of data are based on information from five general sources: LBL business consultation groups; the Engineering Analysis; the Consumer Analysis, public financial data; and industry profiles.

d. Utility Impact Model

The Utility Analysis serves several purposes within the overall assessment of the impact of the proposed standards. It contributes to quantifying the energy savings by determining the reduction in fossil fuels used for electricity generation. The reduction in fossil fuel consumption is also an input to the Environmental Assessment. By calculating utility avoided costs, this area of the analysis provides marginal electricity costs to be used in evaluating the societal benefits of standards. Finally, it examines the impacts on the electric utility industry in terms of changes in investment, revenue requirements, the need for new generating capacity, and residential load factors.

The Utility Analysis adopts the standard convention that the value of electricity savings can be broken down into energy (or marginal cost) savings and capacity (or reliability) savings. The energy impact measures the production costs avoided by reduced electrical demands, valued at the marginal energy costs of the utility. The capacity impact measures the reliability value of reduced loads during system peak periods, which is, by convention, valued at the cost of a combustion turbine that would have been needed to meet the load. The analysis characterizes these avoided costs per kWh of heating, cooling, and baseload energy saved.¹⁵ These values

are used to calculate societal benefits from reduced electricity consumption.

The utility impact model calculates avoided energy costs based on a disaggregation of the generation fuel mix to the National Electric Reliability Council (NERC) regions and a simplified load duration curve for each region. First, the model allocates national electricity savings that are forecasted by the LBL-REM to NERC regions in proportion to their current consumption of heating, cooling, and baseload energy. The regional proportions are derived from data on regional appliance saturations, efficiencies, and hours of use. The fraction of the electricity that would have to be generated at the margin from oil and gas is calculated from the total regional oil and gas fraction and the simplified load duration curve. Projected utility natural gas and coal prices, weighted by the oil and gas fraction and the non-oil and gas fraction respectively, are used to calculate utility marginal costs over the forecast period. The marginal costs are adjusted to account for seasonal differences.

The avoided capacity cost calculation in the model is based on conservation load factors (CLFs) for the energy savings attributable to the standards, as well as the capacity value of a combustion turbine. A conservation load factor is defined as the average hourly energy savings of a conservation measure divided by its peak load savings. The CLFs are a way of characterizing the peak demand savings of a conservation measure. They are used to convert the capacity value of the standards into the per kWh values described above. The NERC forecasts of capacity requirements for each region are used to account for regional variations in reserve margin. If NERC forecasts an adequate reserve margin in a region for a given year, no reliability value is given to the capacity savings in the region.

The inputs needed for the utility impact model are conservation load factors, state-level utility fuel prices, appliance saturations, efficiencies, and hours of use, as well as electricity generation by fuel type and capacity need by NERC region. The outputs of the analysis are the fuel savings, the reduction in the need for new generating capacity, and the avoided energy and capacity costs for heating, cooling, and baseload appliances per million Btu of resource energy. These marginal costs are used to calculate societal costs and benefits of standards.

e. Sensitivity Analyses

Sensitivity studies are performed to determine how changes in technical and

operational parameters affect key engineering and economic indicators used in evaluation of appliance standards. This makes it possible to place limits on the overall results of the analysis and to gain an understanding of which variables are most important in producing these results. Sensitivity analyses are developed in a series of distinct steps. For each component analysis in the overall analysis, critical input parameters are identified and reasonable ranges of variation determined. The sensitivity of the model to changes in the value of each important parameter is then estimated by running the model for both the base case and the standards cases. The results of the sensitivity analyses are examined to determine the sensitivity of the forecasts to exogenous variables and assumptions and the sensitivity of the differences between the base and standards cases (impacts of alternative standards).

IV. Comments

a. Questions for Public Comment

DOE is interested in receiving comments and data concerning the accuracy and workability of this methodology. Also, DOE welcomes discussion on improvements or alternatives to this approach. In particular, DOE is interested in gathering data on the incremental costs of improving the energy efficiency of dishwashers, clothes washers, and clothes dryers. The design options listed above can be used as a starting point; however, data for additional design options would be welcome.

While the Department has been unable to identify any small manufacturers, nevertheless, for purposes of this analysis, small manufacturers' costs are assumed to equal those of medium manufacturers. The Department is especially interested in learning of the existence of such manufacturers, and in obtaining costing data from small manufacturers of the products under consideration.

For the LBL Residential Energy Model, DOL requests interested parties to provide historical data on shipments and average efficiencies by class for the products subject to the proposed rulemaking. Data on consumer prices, and on the installation and maintenance costs of these appliances are also requested.

The manufacturer analysis needs the financial data from the product division level, i.e., dishwashers, clothes washers, and clothes dryers. All of these data are available at the firm level, but firms are

¹⁵ For the purposes of calculating utility avoided costs, electric heating appliances are defined as electric heat pumps and electric resistance heat. Cooling appliances are defined as room and central air conditioners plus heat pumps. Baseload appliances are defined as all other appliances.

typically much larger than the relevant division, and thus firm data may give a misleading indication of the division's finances.

An income statement and balance sheet at the division level would be most helpful. If this is not available, then data on the following variables are considered most essential: net income, revenue, selling and general and administrative expenses, engineering expenses, cost of goods sold, interest, taxes, debt-to-equity ratio, net depreciable assets, net assets, capital investment, and long-term debt.

The Department also would welcome current data on unit sales and revenue for the industries as a whole.

b. Comment Procedure

Interested persons are invited to submit written comments to DOE. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation CE-RM-88-10. Ten copies are requested to be submitted. All comments received by the date specified at the beginning of this notice and all other relevant information will be considered by DOE before the Department continues this rulemaking proceeding. Pursuant to 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and five copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat as confidential information that has been submitted include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

Issued in Washington, DC, May 5, 1988.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 88-10976 Filed 5-17-88; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-46-AD]

Airworthiness Directives; Empresa Brazileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to Embraer Model EMB-120 series airplanes, which currently requires a change to the Airplane Flight Manual (AFM) procedures for emergency/abnormal operations, an inspection of the flap actuator, and replacement of the flap actuator, if necessary. That action was prompted by a report of an uncommanded extension of the outboard flap actuator. This action would require the installation of new and improved hydraulic filters in the actuator solenoid valves, actuator inlet fitting, and flap hydraulic system; and use of revised AFM operational procedures. This action is prompted by results of an investigation of the reported incident, which revealed that hydraulic fluid contamination caused malfunction of the actuator to occur. This condition, if not corrected, could lead to flap asymmetry, which could result in loss of control of the airplane during a critical phase of flight.

DATE: Comments must be received no later than July 7, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-46-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from EMBRAER, 276 S.W. 34th Street, Fort Lauderdale, Florida 33315. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT:

Mr. William Trammell, Systems Branch (ACE-130A), Atlanta Aircraft Certification Office, FAA, Central Region, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; telephone (404) 991-3020.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-46-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On June 19, 1987, FAA issued AD 87-11-03, Amendment 39-5663 (52 FR 24136; June 29, 1987), applicable to all Embraer Model EMB-120 series airplanes, to require certain changes to the FAA-approved Airplane Flight Manual (AFM) regarding procedures during emergency/abnormal operations involving flap control faults, flap disagreement, and flap asymmetry; inspection of the flap actuator; and replacement of the flap actuator, if necessary. That action was prompted by the report of an incident where there was an uncommanded right outboard flap, full deployment, during flight. This condition, if not corrected, could lead to loss of control of the airplane.

Since issuance of that AD, further investigation was conducted to determine the cause of the reported incident. Parker Hannifin Control

System Division, the manufacturer of the flap system actuators, has concluded that hydraulic fluid contamination caused the malfunction of the actuator. New and improved filters have now been developed for the actuator solenoid valve, inlet fitting, and flap hydraulic system that will improve filtration of the hydraulic fluid and prevent contamination from creating the unsafe condition addressed in AD 87-11-03.

EMBRAER has issued Service Bulletin 120-027-0050, dated April 13, 1988, which describes procedures for installation of a filtration design improvement for the actuator solenoid valve which will prevent contamination from passing by the filter and keeping the solenoid slug from seating properly; Service Bulletin 120-027-0042, dated February 10, 1988, which describes procedures for installation of an actuator inlet fitting filter with an improved micron rating which will increase the filtration into the actuator and decrease the amount of contamination that collects on the solenoid screen; and Service Bulletin 120-027-0038, dated November 16, 1987, which describes procedures for installation of in-line filters added to the airplane flap hydraulic system which will improve hydraulic fluid filtering.

Additionally, since issuance of AD 87-11-03, all U.S.-registered Model EMB-120 series airplanes have been modified to include three new failure indicating lights in the annunciator panel. (Procedures for this installation are described in EMBRAER Service Bulletin 120-031-0009.) These lights identify the specific flap system failure that has occurred, and thereby aid in reducing the pilot's recognition and reaction time for corrective action. The FAA-approved AFM has been revised to incorporate the procedures required by AD 87-11-03, and to amend those procedures as they relate to the use of this new failure indicating light installation. This AFM revision is identified as Revision 9 to AFM 120/794 and Revision 14 to AFM 120/624.

In light of the foregoing, the FAA proposes to supersede AD 87-11-03 with a new AD that would require installation of new and improved filters in the actuator or solenoid valve and inlet fitting, and installation of in-line hydraulic filters to the airplane flap hydraulic system, in accordance with the EMBRAER service bulletins described above; and would require use of the most recent revision to the FAA-approved AFM. The FAA has determined that accomplishment of these actions will prevent the

malfunction of the actuators caused by hydraulic fluid contamination.

This airplane is manufactured in Brazil and type certificated in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

The CTA, which is the airworthiness authority for Brazil, has notified FAA that it plans to amend its Brazilian Airworthiness Directive No. 87-05-01, issued October 17, 1987, which addresses this same subject, to require the accomplishment of actions similar to those proposed in this Notice.

It is estimated that 40 airplanes of U.S. registry would be affected by this AD. Parker Hannifin has indicated that it plans to supply and install the solenoid valve and inlet fitting for each actuator at no cost to operators. Additionally, the modification for the hydraulic system in-line filter is to be supplied at no cost by the manufacturer. Therefore, the only cost to operators would be the installation of the flap hydraulic system in-line filters. It would take approximately 20 manhours per airplane to accomplish the required installation, and the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$32,000.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane (\$800). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 87-11-03, Amendment 39-5663 (52 FR 24136; June 29, 1987), with the following new airworthiness directive:

Empresa Brasileira De Aeronautica S.A. (EMBRAER): Applicable to all Model EMB-120 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent flap asymmetry that could lead to loss of control of the airplane in a critical phase of flight, accomplish the following:

A. Within 15 days after the effective date of this AD, revise the FAA-approved Airplane Flight Manual (AFM) to include Revision 9 (for EMB-120RT AFM 120/794) or Revision 14 (for EMB-120 AFM 120/624), as applicable.

B. Within 90 days after the effective date of this AD accomplish the following:

1. Replace the flap actuator solenoid valves with new valves equipped with new filters, in accordance with Embraer Service Bulletin 120-027-0050, dated April 13, 1988;

2. Replace the inlet filter fitting of the flap actuators, in accordance with Embraer Service Bulletin 120-027-0042, dated February 10, 1988; and

3. Install in-line filters to the flap control hydraulic plumbing, in accordance with Embraer Service Bulletin 120-027-0038, dated November 16, 1987.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

Note: The request for an alternate means of compliance should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Atlanta Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to EMBRAER, 276 SW. 34th Street, Fort Lauderdale, Florida 33315.

These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

Issued in Seattle, Washington, on May 5, 1988.

Frederick M. Isaac,
Acting Director, Northwest Mountain Region.
[FR Doc. 88-11050 Filed 5-17-88; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-AWP-3]

Proposed Establishment of Red Bluff, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a control zone and extension at the Red Bluff Municipal Airport, Red Bluff, CA. The intended effect is to provide controlled airspace for aircraft executing published instrument approach procedures to the Red Bluff Municipal Airport.

DATE: Comments must be received on or before July 18, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 88-AWP-3, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT:
Daniel K. Martin, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-1642.

SUPPLEMENTARY INFORMATION: Comments Invited

Interested parties are invited to

participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-AWP-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone and extension at the Red Bluff Municipal Airport, Red Bluff, CA, to provide controlled airspace for aircraft executing published instrument approach procedures to Red Bluff Municipal Airport. Section 71.171 of Part

71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 4, 1988.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Red Bluff, CA [NEW]

Within a 5-mile radius of Red Bluff Municipal Airport, Red Bluff, CA. (lat. 40°09'04" N., 122°15'05" W.) and within 2 miles each side of the Red Bluff VORTAC 167° Radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC.

Issued in Los Angeles, California, on May 5, 1988.

Jacqueline L. Smith,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 88-11051 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-41]

Proposed Removal of Transition Area; Carnegie, OK**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This notice proposes to remove the transition area located at Carnegie, OK. This proposal is necessary since the standard instrument approach procedure (SIAP) to the Carnegie Municipal Airport, utilizing the proposed Carnegie Nondirectional Radio Beacon (NDB), has been canceled. The Carnegie NDB is not being installed as previously planned. The intended effect of this proposed action is to return that controlled airspace no longer required due to the cancellation of the SIAP. Coincident with this action, the status of the airport will change from instrument flight rules (IFR) to visual flight rules (VFR).

DATES: Comments must be received on or before June 20, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87-ASW-41, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:

Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments

on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-41." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) to remove the transition area located at Carnegie, OK. This proposed action is necessary based on the fact that the SIAP to the Carnegie Municipal Airport, utilizing the proposed Carnegie NDB, has been canceled. The NDB will not be installed, requiring the cancellation of the SIAP and negating the need for a 700-foot transition area. Coincident with this action, the airport status will change from IFR to VFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 1988.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Carnegie, OK [Removed]

Issued in Fort Worth, TX on May 4, 1988.

Larry L. Craig

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-11052 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Assistant Secretary for Community Planning and Development****24 CFR Part 570**

[Docket No. R-88-1384; FR 2500]

Urban Development Action Grant (UDAG); Implementing Prohibitions on Use of Urban Development Action; Grants for Business Relocations

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the regulations governing Urban Development Action Grants by revising and adding new text to the existing provisions pertaining to prohibitions on the use of UDAG for business relocations. This proposal intends (1) to codify HUD policy for administering the existing statutory and regulatory prohibition on the use of UDAG funds

for speculative projects intended to facilitate the relocation of businesses from one area to another and (2) to implement new statutory amendments which prohibit the use of UDAG funds for projects with identified intended occupants likely to facilitate the relocation or expansion of businesses from UDAG eligible jurisdictions, provide for appeal of adverse determinations, and for assistance for individuals adversely affected by prohibited relocations.

DATES: Comment Due Date: June 17, 1988.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Stanley Newman, Director, Office of Urban Development Action Grants, Room 7262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6290. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5319), authorizes the Secretary of Housing and Urban Development to "make urban development action grants to cities and counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery."

Subsection (h) of section 119 provides:

(h) No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

The foregoing prohibition is reflected in the UDAG program regulation at 24 CFR 570.456(c), which provides:

(c) Except as specified herein, no assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the level of unemployment or the economic base of the area from which such industrial or commercial plant or facility is to be relocated. However, moves within a

metropolitan area shall not be subject to this provision.

The amended section 119(h) at section 516 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988), (1987 Act), contains provisions prohibiting assistance to projects with identified intended occupants as follows:

(2) Projects with identified intended occupants. No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—

(A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—

(i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and

(ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or

(B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).

(3) Significant and adverse effect. The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

I. Background

The Urban Development Action Grant program is designed to encourage new private investment in cities which are experiencing severe economic distress. Action grants are available to carry out a wide variety of economic investment activities which increase jobs and the tax base of the distressed cities.

Applications for action grants are submitted to and reviewed by HUD every two months. Applications which are selected by HUD in the competitive funding rounds receive preliminary funding approval to the extent funds for assistance are available. Following preliminary approval of a proposed project, a grant agreement is executed by the recipient city and HUD. Recipients then must submit "legally binding commitments" to HUD which demonstrate that public and private activities necessary for the project will be completed. After approval of the legally binding commitments by HUD, a letter of credit is made to the recipient city against which it may draw down grant funds for the project in accordance with the grant agreement.

Two types of industrial and commercial projects are contained in the applications for action grant funds: (1) Projects with identified intended occupants and (2) speculative projects in

which the occupants of all or a portion of the space are not identified at the time the application is considered for funding.

In applications for projects with identified intended occupants, threshold findings as to whether a relocation is involved can be made because a facility is designed and developed to specifically service an identified business firm which is to move from an identified existing location. However, in applications for development of speculative space, no such threshold findings can be made, although the policy concerns of not assisting relocations which generated the statutory and regulatory prohibition remain to be enforced. When the Department learned that some speculative projects involved marketing of the speculative space to potential relocatees from nearby areas, HUD issued a Statement of Policy concerning application of the statutory prohibition to proposed UDAG projects containing speculative space, 50 FR 1505 (January 11, 1985). The Statement of Policy was designed to be used by UDAG applicants as a guide and advisory interpretation of section 119(h) as it applies to applications for development of speculative space.

As noted in the Statement of Policy, the Department found that if certain elements were present in applications for development of speculative space it was reasonable to presume that a speculative space project was more likely than not to be intended to facilitate a relocation, although the identity of the relocatees may not become known until subsequent marketing of the speculative space. The necessary elements for the presumptions of a prohibited relocation and a significant and adverse effect were: (1) The proposed project was reasonably proximate (i.e., within 50 miles) to an area from which there had been a significant current pattern of movement, to areas reasonably proximate thereto, of jobs of the category for which the speculative space is appropriate; (2) there was a likelihood of a continuation of such a pattern; and (3) the area from which the movement of jobs had been occurring was a distressed community as defined in the UDAG regulations. However, the presumptions of a relocation were rebuttable by the applicant. If not rebutted to the Secretary's satisfaction, the application would not be approved. The Statement of Policy also established guidelines for use in the applicant's rebuttal of the presumptions: i.e., marketing studies which would support an inference that

occupancy of the speculative space would more likely result from expansion of other firms in the area outside of the proximate distressed community. The marketing studies alone would not be sufficient to overcome the presumption, but could be supported by covenants and commitments reasonably adequate to preclude a relocation from the proximate distressed community. The covenants and commitments would have to be agreed to prior to preliminary approval and would become part of the grant agreement and legally binding commitments. And the Secretary would be given remedies for breach of the covenants, including prompt repayment of the grant. Finally, the Statement of Policy announced guidelines for threshold amounts of speculative space in projects for the presumptions of a prohibited relocation to apply.

II. Current Issues and New Legislation

The Department continued to be confronted by issues in interpretation and enforcement of the statutory and regulatory provisions quoted above, especially with respect to projects with identified intended occupants. In some project applications, business firms participating with the UDAG applicant city would offer commitments not to relocate the operation of a facility it was shutting down in another distressed community so that there would be no "relocation" under the statute and regulations. And the meaning and application of words and phrases in section 119(h) and its implementing regulation quoted above continued to cause difficulties in following the congressional purpose that Federal UDAG assistance would not be used to facilitate relocations of commercial and industrial facilities from one area to another. The issues include:

- (1) What thresholds apply to find a prohibited relocation?
- (2) What portion of a business unit's operation that is being relocated amounts to a prohibited relocation?
- (3) What constitutes unemployment or job loss necessary to trigger a prohibited relocation?
- (4) Are covenants and commitments by applicants and participating parties useful in determining whether the threshold of a prohibited relocation is met?
- (5) What is the meaning of "from one area to another"?
- (6) Is the Secretary required to make determinations that there is no significant and adverse effect on unemployment or the economic base of the community from which the facility is being relocated?

(7) What factors or criteria are to be used by the Secretary in making findings of no significant and adverse effect?

The continuing difficulties led to enactment of section 516 of the Housing and Community Development Act of 1987, quoted above to add new provisions applicable to projects with identified intended occupants where the projects are "likely to facilitate" relocations of business operations. By its terms it is to apply to urban development action grants that have not received preliminary approval before the date of enactment (February 5, 1988). Yet the Secretary is given 60 days to issue regulations needed to implement the new statutory provisions. We have elected to issue the new regulations in the form of a proposed rule because of the inherent and identified complexities in this matter.

III. Proposed Rule

(A) Applications for Development of Speculative Space

The proposed rule codifies all of the guidelines of the Statement of Policy, except the use by an applicant city of covenants and commitments to rebut presumptions of a prohibited relocation.

The proposed rule provides (1) determinable circumstances which would create rebuttable presumptions that a proposed speculative project is intended to facilitate the relocation of an industrial or commercial plant or facility from one area to another and that such relocation will also significantly and adversely affect the employment or economic base of the area from which the relocation will occur; (2) that the Secretary is not required to determine whether there is a significant and adverse effect; and (3) threshold proportional amounts of speculative space for different size projects, below which the presumptions do not apply.

(B) Applications for Projects with Identified Intended Occupants

The proposed rule provides: (1) Criteria for determining whether a proposed project with identified intended occupants is likely to facilitate a proscribed relocation or expansion; (2) criteria for determining whether such relocation or expansion will significantly and adversely affect the employment or economic base of the UDAG eligible jurisdiction from which the relocation or expansion will occur; (3) that the Secretary is not required to determine whether or not there is a significant and adverse effect; and (4) criteria to be used by the Secretary in determining whether there is a

significant and adverse effect, if the Secretary makes such a determination.

The proposed rule also addresses the geographic area in which the prohibition is applicable, both for projects with identified intended occupants and for speculative projects. It provides that the prohibition does not apply to relocations within the same metropolitan area. This approach is based on the legislative history of the original provisions of the business relocation prohibitions and the interpretation the Department has given to it over the ten-year history of the UDAG program. In explaining the provision in H.R. 6655 which became section 119(h), the House Committee on Banking, Finance and Urban Affairs stated in H.R. 95-236:

The committee recognizes that stimulation of private investment by one jurisdiction in a metropolitan area may in some instances result in the loss of commercial or employment activity in another. The disadvantaged community may in fact be the one least capable of retaining its economic base and be most in need of economic development.

Intra-MSA Insulation Against Prohibition

Although the 1987 Act applies the prohibition in the case of identified intended occupants to relocation from a UDAG-distressed community to another UDAG-distressed community, there is no indication in the 1987 legislative history that the Congress intended to change the Congressional focus on relocations outside the same metropolitan area. Further, since the provisions in section 119(h) dealing with the speculative space projects are essentially unchanged by the 1987 Act, the Department believes the thrust of this Congressional intent remains in force. The Department's longstanding regulatory implementation at § 570.456(c) has been more limited than the statement in the 1977 House Report quoted above. While the House Report only discussed moves from one metropolitan area to another (and theoretically does not address moves to or from nonmetropolitan areas as well as moves within the same metropolitan area), HUD's ten-year old regulation has been limited to insulating against the prohibition only relocations within the same metropolitan area.

Accordingly, the proposed rule would continue not to apply the prohibition to relocations within the same metropolitan area (an exception which has lesser effect in the case of identified intended occupants since their relocation from non-UDAG distressed

communities are not prohibited anywhere).

The proposed rule also provides for appeals to the Secretary by applicants adversely affected by prohibited relocations and for assistance for individuals adversely affected by prohibited relocations.

The proposed rule also requires the project developer to certify that, to the best of its knowledge, the requested UDAG funds will not facilitate any business relocation as described in § 570.456(c). If the UDAG funds will facilitate any business relocation, a detailed explanation shall be provided.

Findings

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Ordinarily the Department provides 60 days for public comment on proposed rulemakings. However, publication of this rule has been delayed by the required prepublication review under section 7(o)(2) of the Department of HUD Act (42 U.S.C. 3535(o)(2)) and the additional legislative review requirement that final rules, once published, must await 30 congressional session days to take effect will make it difficult for the Department to make this rule effective during calendar 1988. (This is because under the current congressional schedule, a rule must be published by Ax early in order to complete its 30 session day review period before the scheduled adjournment.)

By reducing the public comment period to thirty days, the Department hopes to have adequate time to take comments into account and produce a

final rule for August publication—thus assuring the rule takes effect this year.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities because the number of affected small entities would not be substantial. The funding for the UDAG program has been reduced in recent years, and only a small portion of UDAG applications contain projects which involve prohibited relocations.

This rule was not listed in the Department's Semianual Agenda of Regulations published on April 25, 1988 (53 FR 13854) under Executive Order 12291 and the Regulatory Flexibility Act. (The Catalogue of Federal Domestic Assistance number is 14.221-Urban Development Action Grants.)

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, 24 CFR Part 570 is proposed to be amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for Part 570 would continue to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Paragraph (c) of § 570.456 would be revised to read as follows:

§ 570.456 Ineligible activities and limitations on eligible activities.

* * * * *

(c)(1) No assistance may be provided under this subpart for speculative projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another. The provisions of this paragraph (c)(1) shall not apply to a relocation of any such plant or facility within a metropolitan area.

(i) HUD will presume that a proposed project which includes speculative commercial or industrial space is intended to facilitate the relocation of a plant or facility from one area to another, if it is demonstrated to HUD's satisfaction that:

(A) The proposed project is reasonably proximate (i.e., within 50 miles) to an area from which there has

been a significant current pattern of movement, to areas reasonably proximate, of jobs of the category for which such space is appropriate; and

(B) There is a likelihood of continuation of the pattern, based on measurable comparisons between the area from which the movement has been occurring and the area of the proposed project in terms of tax rates, energy costs, and similar relevant factors.

(ii) The restrictions established in this paragraph (c)(1) shall not apply if the Secretary determines that the relocation does not significantly and adversely affect the employment or economic base of the area from which the industrial or commercial plant or facility is to be relocated. However, the Secretary will not be required to make a determination whether there is a significant and adverse effect. If such a determination is undertaken, the Secretary will presume that there is a significant and adverse effect where the significant pattern of job movement and the likelihood of continuation of such a pattern has been from a distressed community.

(iii) The presumptions established in accordance with this paragraph (c)(1) are rebuttable by the applicant. However, the burden of overcoming the presumptions will be on the applicant.

(iv) The presumptions established in this paragraph (c)(1) will not apply if the speculative space contained in a commercial or industrial plant or facility included in a project constitutes a lesser percentage of the total space contained in that plant or facility than the threshold amounts specified below:

Size of plant or facility	Amount of speculative space (percent)
0 to 50,000 sq. ft.....	10
50,001 to 250,000 sq. ft.....	8
250,001 to 1,000,000 sq. ft.....	5
1,000,001 or more sq. ft.....	3

(2) Projects with identified intended occupants. (i) No assistance may be provided or utilized under this subpart for any project with identified intended occupants that is likely to facilitate:

(A) A relocation of any operation of an industrial or commercial plant or facility or other business establishment from any UDAG eligible jurisdiction; or

(B) An expansion of any operation of an industrial or commercial plant or facility of other business establishment that results in a substantial reduction of any such operation in any UDAG eligible jurisdiction.

The provisions of this paragraph (c)(2) shall not apply to a relocation of an operation or to an expansion of an operation within a metropolitan area. The provisions of this paragraph (c)(2) shall apply only to projects that do not have speculative space, or to projects that include both identified intended occupant space and speculative space.

(ii) Significant and adverse effect. The restrictions established in this paragraph (c)(2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the UDAG eligible jurisdiction from which the relocation or expansion occurs. However, the Secretary will not be required to make a determination whether there is a significant and adverse effect. If such a determination is undertaken, among the factors which the Secretary will consider are:

(A) Whether it is reasonable to anticipate that there will be a significant net loss of jobs in the plant or facility being abandoned; and

(B) Whether an equivalent productive use will be made of the plant or facility being abandoned by the relocating or expanding operation, thus creating no deterioration of economic base.

(3) Within 90 days following notice of intent to withhold, deny or cancel assistance under paragraph (c)(1) or (2), the applicant may appeal in writing to the Secretary the withholding, denial or cancellation of assistance. The applicant will be notified and given an opportunity within a prescribed time for an informal consultation regarding the action.

(4) Assistance for individuals adversely affected by prohibited relocations. (i) Any amount withdrawn by, recaptured by, or paid to the Secretary because of a violation (or a settlement of an alleged violation) of this section (or any regulation issued or contractual provision entered into to carry out this section) by a project with identified intended occupants will be made available by the Secretary as a grant to the UDAG eligible jurisdiction from which the operation of an industrial or commercial plant or facility or other business establishment was relocated, or in which the operation was reduced.

(ii)(A) Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved before the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job

training, job retraining, and job placement.

(B) If any amount made available to a grantee under this paragraph (c)(4) is more than is required to provide the assistance described in paragraph (c)(4)(ii)(A), the grantee shall use the excess amount to carry out community development activities eligible under section 105(a) of the Housing and Community Development Act of 1974.

(iii)(A) The provisions of this paragraph (c)(4) shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.

(B) Grants may be made under this paragraph (c)(4) only to the extent of amounts provided in appropriation Acts.

(5) For purposes of this section, the following definitions apply:

(i) "Operation" means any plant, equipment, facility, substantial number of positions, substantial employment opportunities, production capacity, or product line.

(ii) "Metropolitan area" means a metropolitan area as defined in § 570.3(p) and which consists of either a freestanding metropolitan area or a primary metropolitan statistical area where both primary and consolidated areas exist.

(iii) "Likely" means probably or reasonably to be expected, as determined by firm evidence such as resolutions of a corporation to close a plant or facility, notifications of closure to collective bargaining units, correspondence and notifications of corporate officials relative to a closure, and supportive evidence, such as newspaper articles and notices to employees regarding closure of a plant or facility. Consultant studies and marketing studies may be submitted as supportive evidence, but by themselves are not firm evidence.

(iv) "UDAG eligible jurisdiction" means a distressed community, a Pocket of Poverty, a Pocket of Poverty community, or an identifiable community described in section 119(p) of the Housing and Community Development Act of 1974.

(6) Notwithstanding any other provision of this subpart, nothing in this subpart may be construed to permit an inference or conclusion that the policy of the urban development action grant program is to facilitate the relocation of businesses from one area to another.

3. Section 570.458(c)(14) would be amended to add new paragraph (xvi) as follows:

§ 570.458 Full applications.

(c) * * *

(14) * * *

(vi) The project developer must certify that, to the best of its knowledge, the requested UDAG funds will not facilitate any business relocation as described in § 570.458(c). If the UDAG funds will facilitate any business relocation, a detailed explanation shall be provided.

Date: April 15, 1988.

Jack R. Stokvis,

General Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc. 88-11167 Filed 5-17-88; 8:45 am]

BILLING CODE 4210-29-M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1515

[FRL-3379-9]

Acquisition Regulation; Disclosure and Use of Information in Proposals Before Contract Award

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: This document proposes a rule regarding the Environmental Protection Agency's (EPA) disclosure and use of information in proposals before contract award. The Federal Acquisition Regulation (FAR) gives EPA, as well as other executive agencies, the authority to use alternate procedures to release proposals outside the Government for evaluation. The authority, however, must be in agency regulations that implement the FAR. The intended effect of this action is to amend the EPA Acquisition Regulation (EPAAR) to permit the use of the alternate procedures in the FAR. These alternative procedures will allow EPA to obtain the opinion of outside experts in evaluating proposals submitted under EPA's Small Business Innovative Research Program.

DATE: Written comments should be submitted not later than July 18, 1988.

ADDRESS: Comments should be addressed to: Procurement and Contracts Management Division (PM-214-F), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, ATTN: Joseph Nemargut, Jr.

FOR FURTHER INFORMATION CONTACT: Joseph Nemargut at (202) 475-9790.

SUPPLEMENTARY INFORMATION:**A. Background**

Federal Acquisition Regulation 15.413-1 provides that after receipt of proposals, none of the information contained in them shall be made available to the public. FAR 15.413-2 provides that Agency regulations may provide for the alternate procedures in FAR 15.413-2 instead of the procedures in FAR 15.413-1.

The purpose of this proposed rule is to adopt the alternate procedures in FAR 15.413-2 for EPA. FAR 15.413-2 permits disclosure of proposals outside the Government only to the extent authorized by, and in accordance with the procedures in FAR 15.413-2(f). This rule also retains the restrictions relating to release of proposal information in FAR 15.413-1, paragraphs (a) and (b), notwithstanding adoption of the procedure in FAR 15.413-2.

The EPA is adopting these alternate procedures in order to obtain the opinion of outside experts in evaluating proposals submitted under EPA's Small Business Innovative Research Program. The EPA may also rely on the technical expertise of non-Federal employees in evaluating other types of proposals requiring a high level of detailed expertise, especially in areas of complex and constantly changing technology.

B. Executive Order 12291

OMB Bulletin No. 85-7, dated December 14, 1984, establishes the requirements for Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring Office of Management and Budget review.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

D. Regulatory Flexibility Act

The EPA certifies that this rule does not exert a significant economic impact on a substantial number of small entities. The rule permits EPA to exercise its authority under the FAR to release proposals outside the Government for evaluation. The rule has no impact on the EPA Source Selection Procedures in 48 CFR Subpart 1515.6.

List of Subjects in 48 CFR 1515

Government procurement, Contracting by negotiation authority.

For the reasons set out in the preamble, Part 1515 of Title 48 Code of Federal Regulations, is proposed to be amended as follows:

PART 1515—[AMENDED]

1. The authority citation for Part 1515 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1515.413 is added to read as follows:

1515.413 Disclosure and use of information before award.

(a) Contracting Officers shall follow the Alternate II proposal evaluation procedures in FAR 15.413-2.

(b) After receipt of proposals, none of the information contained in them or concerning the number or identity of offerors shall be made available to the public or to anyone in the Government not having a legitimate interest. In the event an outside evaluation is to be obtained, information in proposals or information concerning the number or identity of offerors shall be disclosed only to the extent authorized by and in accordance with the procedures of FAR 15.413-2(f) and these regulations. 1515.413.

(c) During the preaward or preacceptance period of a negotiated acquisition, only the contracting officer, the contracting officer's superiors having contractual authority, and others specifically authorized shall transmit technical or other information and conduct discussions with prospective contractors. Information shall not be furnished to a prospective contractor if, alone or together with other information, it may afford the prospective contractor an advantage over others (see FAR 15.610, Written or oral discussion). However, general information that is not prejudicial to others may be furnished upon request.

(d) The Chief of the Contracting Office (CCO) is the designated official to make the decision as provided by FAR 15.413-2(f)(1).

(e) The Contracting Officer shall submit a written determination to the CCO whenever the use of FAR 15.413-2(f) procedures is contemplated. Following CCO approval, proposals may be released to non-Government employees for review and evaluation consistent with the provisions of FAR 15.413-2(f)(2)-(5).

(f) The following written certification and agreement shall be obtained from the non-Government evaluator prior to the release of any proposal to that evaluator:

Certification on the Use and Disclosure of Proposals

RFP# _____

Offeror _____

1. I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objective review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage.

2. I agree to use any proposal information only for evaluation purposes. I agree not to copy any information from the proposal(s), to use my best effort to safeguard such information physically, and not to disclose the contents of nor release any information relating to the proposal(s) to anyone outside of the Source Evaluation Board assembled for this acquisition or individuals designated by the Contracting Officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

(Name and Organization)

(Date of Execution)

(End of Certificate)

(g) The Contracting Officer shall place the Government Notice for Handling Proposals (FAR 15.413-2(e)) on the cover pages of all proposals upon their receipt.

3. Section 1515.604-70(a) is amended by adding a sentence to the end of the paragraph to read as follows:

1515.604-70 Personal conflicts of interest.

(a) * * * In the event an outside evaluation is to be obtained, non-Government employees may participate only if the procedures in FAR 15.413-2(f) and 1515.413 are followed.

* * * * *

Date: April 26, 1988.

G.M. Katz,

Acting Director, Office of Administration.

[FR Doc. 88-10720 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF JUSTICE**48 CFR Parts 2801, 2810, 2852 and 2870**

[Justice Acquisition Circ. 87-3]

Acquisition Regulations; Nondiscrimination on the Basis of Handicap in Programs or Activities Performed by Contractors

AGENCY: Office of the Procurement Executive, Justice Management Division, Justice.

ACTION: Proposed Rule.

SUMMARY: The Department of Justice intends to amend the Justice Acquisition Regulations (JAR), 48 CFR, Chapter 28, to add a new clause in Part 2852 and a new Part 2870 to implement the requirements of section 504 of the

Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal Executive agencies and the United States Postal Service (29 U.S.C. 794). Because the Department of Justice (DOJ) relies on contractors to perform selected agency activities, compliance with section 504's prohibitions would be facilitated by incorporation of appropriate contract clauses into DOJ contracts. This proposed rule, therefore, makes clear that DOJ's regulations implementing section 504 in programs or activities conducted by DOJ (28 CFR Part 39) applies to such programs or activities performed by contractors. The proposed rule, however, provides expedited alternative complaint procedures in addition to those found in 28 CFR Part 39. Alternative complaint procedures administered by the DOJ contracting officer are authorized because a complaint involving a DOJ contracted activity is subject to the remedies available in the contract and in the Federal Acquisition Regulations (FAR) in addition to the remedies available under 28 CFR Part 39. The availability of summary procedures is important particularly when activities performed by contractors are of short duration, such as training programs or conferences, and an informal and expeditious procedure to resolve complaints is desirable. The proposed rule allows *de novo* consideration of a complaint adjudicated by the contracting officer under the complaint procedures set forth in 28 CFR Part 39. A complainant, however, may elect to bypass the more expeditious procedures provided in this proposed rule and file a complaint directly under 28 CFR Part 39. In addition, this proposed rule also makes editorial corrections in Parts 2801 and 2810.

DATE: To be assured of consideration, comments must be received by June 17, 1988.

ADDRESS: Interested parties should submit written comments to: W.L. Vann, Procurement Executive, Justice Management Division, Room 6406, Patrick Henry Building, U.S. Department of Justice, Washington, DC 20530. Please cite Justice Acquisition Circular (JAC) 87-3 in any correspondence related to this proposed rule.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Justice Management Division, 202-272-8354 or 202-272-4091(TDD).

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget, by memorandum dated December 14, 1984, exempted agency

procurement regulations from review under Executive Order 12291 except for selected areas. The exemption applies to this rule. The Department of Justice certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601-612).

List of Subjects in 48 CFR Parts 2801, 2810, 2852 and 2870

Civil Rights, Government procurement, Handicapped.

Harry H. Flickinger,

Assistant Attorney General for Administration.

For the reasons set out in the preamble, Title 48, Chapter 28 of the Code of Federal Regulations (CFR) is proposed to be amended as follows:

The authority citation for 48 CFR Parts 2801, 2810, continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATIONS SYSTEM

2801.603 [Amended]

1. In section 2801.603, paragraphs (c) (2)(ii), (3)(ii) and (4)(ii) are amended by revising the cite "2801.601(f)" to read "2801.603(e)."

2. In section 2801.603 paragraph (e)(1)(v) is amended by revising "Contact" to read "Contract."

PART 2810—SPECIFICATIONS, STANDARDS AND OTHER PURCHASE DESCRIPTIONS

3. In the table of contents, the entry 2810.004-70 "Brand name of equal" purchase description is amended by revising "of" to "or."

PART 2852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. The authority citation for Part 2852 is revised to read as follows:

Authority: 28 U.S.C. 510; 29 U.S.C. 794; 40 U.S.C. 486(c); 28 CFR 0.75(j); 28 CFR 0.76(j) and 28 CFR Part 39.

5. Section 2852.270-1 is added to read as follows:

2852.270-1 Nondiscrimination on the basis of handicap in DOJ programs or activities performed by contractors.

As prescribed in 2870.104, insert the following clause in all solicitations and contracts where the agency program or activity performed by contract provides an aid, benefit or service to applicants,

participants, Federal personnel or members of the public.

Nondiscrimination on the Basis of Handicap in DOJ Programs or Activities Performed by Contractors

In the performance of this contract, the contractor agrees as follows:

(a) **Participation.** The contractor shall take appropriate steps to ensure that qualified handicapped persons are afforded equal opportunities to participate in and benefit from, DOJ programs or activities performed under this contract.

(1) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, or be denied the benefits of, or otherwise be subjected to discrimination under the activities or programs conducted as a result of this contract.

(2) The contractor in providing any aid, benefit or service, whether directly or through subcontracts or other arrangements may not, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or service to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others; or,

(v) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(3) The contractor may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(4) The contractor may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would:

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or,

(ii) Defeat or substantially impair accomplishment of the objectives of the program or activity with respect to handicapped persons.

(5) The contractor may not, in determining the site or location of a facility, make selections the purpose or effect of which would:

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under the program or activity conducted by the contractor; or,

(ii) Defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this contract.

(7) The contractor shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(b) *Communications.* The contractor shall take appropriate steps to ensure effective communications with applicants, participants, Federal personnel, and members of the public.

(1) The contractor shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the contractor.

(i) In determining what type of auxiliary aid is necessary, the contractor shall give primary consideration to the requests of the handicapped person.

(ii) The contractor need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the contractor communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(3) The contractor shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(4) The contractor shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(5) If the contractor believes that an action required by this section would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the contractor shall notify the contracting officer. The contracting officer may request a determination from the Associate Attorney General, pursuant to 28 CFR 39.180(d) that the alteration would result in a fundamental alteration or in undue financial and administrative burdens. If the Associate Attorney General makes such a determination, the contractor and the contracting officer shall negotiate revisions to the contract to specify what actions are required to ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

(c) *Program accessibility.* Except as otherwise provided in (2) below, no qualified

handicapped person shall, because the contractor's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination in the performance of a DOJ contracted program or activity.

(1) If any facility used in the performance of this contract is not readily accessible to and usable by handicapped persons, the contractor shall make the program or activity readily accessible to and usable by handicapped persons through such means as reassignment of services to accessible buildings, assignment of aides to beneficiaries, delivery of services at alternate accessible sites, or any other effective methods.

(2) If the contractor believes that an action required by this section would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the contractor shall notify the contracting officer. The contracting officer may request a determination from the Associate Attorney General, pursuant to 28 CFR 39.150(a)(2), that the action would result in a fundamental alteration or in undue financial and administrative burdens. If the Associate Attorney General makes such a determination, the contractor and the contracting officer shall negotiate revisions to the contract to specify what actions are required to ensure that handicapped persons receive the benefits and services of the program or activity.

(3) The contractor shall not under any circumstance obligate any funds under this contract for the alteration or construction of facilities without the prior written permission of the contracting officer.

(d) *Noncompliance.* Failure to comply with the requirements of this clause and the provisions of 2870.103 regarding compliance procedures may result in this contract being subject to the remedies contained in the Federal Acquisition Regulations 48 CFR Chapter 1, including suspension of payments, suspension or termination of the contract, and consideration by the contracting offices of the protective remedies in 48 CFR, Chapter 1, Part 9 regarding debarment and suspension.

(e) *Subcontracts.* The Contractor shall include the terms of this clause in all subcontracts awarded under this contract. [End of Clause]
January 1988

6. Part 2870 is added to read as follows:

PART 2870—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF JUSTICE PROGRAMS OR ACTIVITIES PERFORMED BY CONTRACTORS

2870.100 Scope of part.

2870.101 Policy.

2870.102 Application.

2870.103 Compliance procedures.

2870.104 Contract clause.

Authority: 29 U.S.C. 794; 28 CFR Part 39.

2870.100 Scope of part.

This part prescribes policies and procedures for implementing section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal Executive agencies and the United States Postal Service, in programs or activities of the Department of Justice (DOJ) that are performed by contractors. This part only addresses requirements for the provision of services by contractors in programs or activities conducted by DOJ. It does not address requirements under section 503 of the Act (29 U.S.C. 793) regarding the employment of individuals with handicaps by contractors (see FAR Subpart 22.14).

2870.101 Policy.

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap in any program or activity conducted by Federal Executive agencies and the United States Postal Service. The Department of Justice issued a regulation implementing the requirements of section 504 in September 1984 (28 CFR Part 39). It is the policy of DOJ that Federal contractors, when performing DOJ programs or activities, have the same obligation to afford individuals with handicaps the opportunity to benefit from or participate in the program or activity as if DOJ were conducting it. This rule and the clause at 48 CFR 2852.270-1 implement the requirements of section 504 with respect to services performed by DOJ contractors.

2870.102 Application.

This part applies to all DOJ programs or activities that are performed by contractors and that provide an aid, benefit, or service to applicants, participants, Federal personnel, or members of the public.

2870.103 Compliance procedures.

(a) Any person who believes that he or she has been subjected to discrimination prohibited by this part or by the contract clause at 48 CFR 2852.270-1 may by him or herself or by his or her authorized representative file a complaint. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part or the contract clause at 48 CFR 2852.270-1 and who is a member of that class or the authorized representative of a member of that class may file a complaint.

(b) Complaints must be filed with the contractor, the DOJ contracting officer, or the contracting officer's technical representative (COTR) within 180 days of the alleged discrimination. The official who receives the complaint shall, within one working day of receipt of the complaint, notify the other two officials that a complaint has been filed. The contractor and the DOJ officials shall review the merits of the complaint and determine within three days what, if any, action is appropriate to resolve the complaint. If a complaint is first filed with the contractor, failure of the contractor to notify the DOJ officials listed in this paragraph, or other officials designated to receive complaints in their absence, within the prescribed time shall constitute a violation of the contract and shall be grounds for imposition of remedies available under the contract and the Federal Acquisition Regulations, including suspension of payments, termination or suspension of the contract, and consideration of suspension or debarment of the contractor. Complaints submitted to parties other than the contractor shall be considered confidential unless this confidentiality is expressly waived by the complainant and except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation or proceeding under this part.

(c) A complaint shall be submitted in writing, signed by the complainant or authorized representative, and dated. It shall contain the complainant's name and address and sufficient information to enable the contractor and agency officials to understand the nature of the complaint and the requested resolution.

(d) Before filing a complaint under this section, an inmate of a Federal penal institution must exhaust the Bureau of Prisons Administrative Remedy Procedure as set forth in 28 CFR Part 542.

(e) If, after the initial discussion of the complaint's merits, facts are in dispute, the contracting officer shall promptly seek clarification or conduct fact-finding as necessary. Where the complaint is determined by the contracting officer to have merit and the violation cannot be resolved informally, the contracting officer shall proceed in accordance with the remedies available under the contract and the Federal Acquisition Regulations, including suspension of payments, termination or suspension of the contract, and consideration of suspension or debarment of the contractor. A final decision shall be issued within five days of receipt of the complaint.

(f) The complainant may file a complaint under 28 CFR 39.170 as an alternative to the procedures of paragraphs (a)-(e) of this section or as a request for *de novo* consideration of a complaint for which a final decision was rendered under paragraph (e) of this section. Complaints filed under 28 CFR Part 39 must be filed within 180 days of the occurrence of the alleged discrimination, except that complaints filed as a request for *de novo* consideration of a complaint for which a final decision was rendered under paragraph (e) of this section may be filed within 180 days of the occurrence of the alleged discrimination or within 30 days of the final decision of the contracting officer, whichever is later. If the complaint is a request for *de novo* consideration of a final decision rendered under paragraph (e) of this section, the complaint shall so indicate.

2870.104 Contract clause.

The contracting officer shall insert the clause set forth at 48 CFR 2852.270-1, Nondiscrimination on the Basis of Handicap in DOJ Programs or Activities Performed by Contractors, in all solicitations and contracts where the contractor is to provide an aid, benefit, or service to applicants, participants, Federal personnel, or members of the public. Examples of aids, benefits, or services covered by this clause include, but are not limited to training or seminars, conferences, transportation services, ceremonial services, operation of halfway houses or similar arrangements, activities in Federal prisons, operation of cafeterias or similar services, operation of a credit union, recreational facilities, or airline ticket offices.

[FR Doc. 88-10943 Filed 5-17-88; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1-21; Notice 8]
RIN: 2127-AC24

Federal Motor Vehicle Safety Standard 114, Theft Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for a notice of proposed rulemaking (NPRM) published April 5, 1988, requesting comment on a NHTSA

proposal to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 114, by establishing requirements to decrease the prospect of inadvertent gear shifting or inadvertent steering column lock up. The petitioner requested that certain information underlying the proposal be placed in the public docket and that closing date be extended to provide an opportunity to review that information. Petitioner asserted that without adequate time to review this information, it could not conduct a comprehensive assessment to develop a useful response to the NPRM. To provide this opportunity, the agency is extending the comment period from May 20 to July 5, 1988.

DATE: The comment period for Docket No. 1-21, Notice 8 now closes July 5, 1988.

ADDRESS: Comments should refer to Docket No. 1-21, Notice 8, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. The telephone number is (202) 366-4949. The Docket Section is open on weekdays from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Rutland, Office of Vehicle Safety Standards, NRM-11, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Rutland's telephone number is (202) 366-5267.

SUPPLEMENTARY INFORMATION: On April 5, 1988, NHTSA published an NPRM proposing to amend FMVSS No. 114 by requiring a gear shift lever lock on automatic transmission vehicles, and a locking sequence that NHTSA tentatively believes would make inadvertent locking of a steering column less likely in both automatic and manual transmission vehicles. NHTSA sought comment on whether inadvertent gear shift poses a significant safety problem for vehicles equipped with a manual transmission, and welcomed further information on the incidence of inadvertent gear shift in automatic transmission vehicles. Comment was also sought on the incidence of inadvertent steering column lock-up as a safety problem, and on the likely costs of these proposed revisions.

On April 26, 1988, NHTSA received a petition for an extension of the comment period submitted on behalf of the Motor Vehicle Manufacturers Association (MVMA). In its petition, MVMA stated that its efforts to submit comments were hampered by the unavailability in the public docket of information that NHTSA had identified in the proposal as underlying its proposed changes.

MVMA cited the information, and asserted that as of April 20, 1988, the information was not available in the public docket. MVMA therefore asked that the agency extend the comment period to 45 days after all background materials used to prepare the April 5, 1988 NPRM were placed in the docket.

NHTSA has considered the request for extension of the comment period and finds that comments from MVMA and other interested parties on the information requested by MVMA would be useful in the agency's evaluation of the proposed rule. That information will soon be placed in the public docket.

For the proceeding reasons, the agency concludes that there is good cause for extending the comment period, and further concludes that such extension is in the public interest. Therefore, NHTSA extends the comment period, originally due to expire May 20, 1988, to July 5, 1988.

Issued Date: May 12, 1988.

Barry Felrice,
Associate Administrator for Rulemaking
[FR Doc. 88-11077 Filed 5-17-88; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 80477-8077]

Subsistence Taking of North Pacific Fur Seals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed notice and request for public comments.

SUMMARY: Regulations on subsistence taking of North Pacific fur seals require NMFS to publish, in the *Federal Register* by April of each year, a summary of the previous year's fur seal harvest and a discussion of the number of seals expected to be taken in the current year to meet the subsistence needs of the Aleut residents of the Pribilof Islands. This notice summarizes the 1987 harvest and estimates the number of seals which may be needed in 1988. Following a 30-day public comment period, a final notice of the expected harvest levels will be published before the start of the harvest season on June 30.

DATES: Comments must be received on or before June 16, 1988.

ADDRESS: Comments may be mailed to Nancy Foster, Ph.D., Director, Office of Protected Resources and Habitat

Programs (F/PR), NMFS, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT:
Dr. Steven Zimmerman, 907-586-7233 or Georgia Cranmore, 202-673-5351.

SUPPLEMENTARY INFORMATION:

Background

The subsistence harvest of North Pacific (northern) fur seals (*Callorhinus ursinus*) on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR Part 215 Subpart D—Taking for Subsistence Purposes. These regulations were published under the authority of the Fur Seal Act, 16 U.S.C. 1151 *et seq.*, and the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.* (see 51 FR 24828, July 9, 1986). The purpose of these regulations is to limit the take of fur seals to a level providing for the legitimate subsistence needs of the Pribilofians using humane harvesting methods, and to restrict taking by sex, age, and season for herd management purposes. As required by 50 CFR 215.32(b), this notice summarizes the 1987 harvest and estimates the number of seals that may be needed for subsistence in 1988. The traditional subsistence use of fur seals on the Pribilof Islands is discussed in Veltre and Veltre (1981).

Summary of the 1987 Harvest

(1) Duration of the Harvest and Number of Seals Taken

(a) *St. Paul Island.* Although the fur seal harvest season opened on June 30, fur seals were first taken on St. Paul Island on Tuesday, July 14. Harvesting was carried out each subsequent weekday through Friday, August 7. As required by 50 CFR 215.32(e)(1)(iii), the harvest was terminated on August 7, when the lower end of the estimated subsistence level of 1600 seals was reached. On August 7, the Tanadagusix Corporation (TDX) requested an extension of the subsistence harvest season. Such an extension is permissible under the terms of 50 CFR 215.32(f)(2) if certain conditions are met. On August 11, TDX informed NMFS representatives on St. Paul that a survey of Island residents had indicated that 211 more seals were needed for subsistence.

After obtaining the comments of interested parties, NMFS determined that the subsistence needs of the residents of St. Paul Island had not been met and that the harvest could continue until the additional 211 seals were taken, or until 5 females were accidentally taken. As required by 50 CFR 215.32(f)(2)(iii), the harvest was terminated when the number of female seals harvested reached 5. The total

number of seals killed during the 20 days of harvesting in 1987 on St. Paul Island was 1710. Six of the animals were female, the remaining animals were subadult males.

(b) *St. George Island.* Fur seal harvesting began on St. George Island on Saturday, July 11. As required by 50 CFR 215.32(f)(1), the harvest on St. George Island was terminated on August 8. Only two days of harvesting occurred during the July 11-August 8 period. A total of 92 seals were taken on the two harvest days. Residents of St. George Island did not request an extension of their harvest season.

(2) Use of Seal Meat and Other Parts

NMFS considers the removal and consumption of the following seal parts to constitute substantial use which would be consistent with the requirement in 50 CFR 215.31(b) that the taking of seals not be accomplished in a wasteful manner: All hearts, livers, flippers, breasts, shoulders, and other readily utilizable tissues and organs, a limited number of backbones, and some, but not necessarily all, rib sections (also see 51 FR 24831-24832, July 9, 1987). Prior to the 1985 harvest it was determined that the mean weights of hearts, livers, flippers, and shoulders (including much of the breast) constituted approximately 30.2 percent of the mean total weight of the animals (Zimmerman and Letcher, 1986). This has since been used as a minimum value to estimate whether substantial use is being made of carcasses each day.

In 1987, 101 animals were weighed before and after the minimum butchering had been done (i.e., only the heart, liver, flipper, shoulder, and breast had been taken from each animal for human consumption). A mean 29.1 percent of each animal was dressed out under these circumstances. An additional 83 seals were weighed before and after virtually all consumable parts of the animals had been dressed out, i.e., everything was taken except for the pelt, blubber, skull, neck, and body fluids. A mean 53.3 percent of each animal was used under this circumstance. Thus, the mean range between minimally butchered and maximally butchered seals is estimated to lie between 29.1 and 53.3 percent of the initial carcass weight.

(a) *St. Paul Island.* During 1985-1987, NMFS collected data on the percent-use of seal carcasses and the weight of seal meat taken for human consumption on St. Paul Island. During 1986 and 1987, these values were estimated each day by weighing approximately 10 percent of the carcasses before and after

butchering. (For a discussion of these methods, see Zimmerman and Letcher (1986) and Zimmerman and Melovidov (1987).) Approximately 41 percent of each seal carcass was used for subsistence purposes on St. Paul Island in 1987. This was lower than the approximately 44 percent-use estimated in 1985 and the 47 percent-use in 1986. However, based on the measurements described above, a mean use of 41 percent of each seal substantially exceeds the minimum level of butchering required.

As in 1986, the number of animals taken each day was based on the number of orders placed with the Conservation Officer for the Tribal Government of St. Paul. Daily harvests were carried out by experienced sealers employed by TDX. Butchering was done by either the individuals who had requested the seals, or by the harvest crew for later delivery to the fish processing plant or to the home of the requester.

The mean weight of unbutchered animals (25.4 kg; 55.8 lb) was significantly greater in 1987 (Fisher's least significant difference test; $p < .01$) than in 1986 (23.4 kg; 51.7 lb), and significantly less than in 1985 (28.5 kg; 62.8 lb). As indicated in Zimmerman and Melovidov (1987), the decrease between 1985 and 1986 mean weights appeared to result from the fact that smaller and younger seals were taken for food in 1986. Although the same bias for smaller seals was operative in 1987, the increase in mean weight probably reflects an increasing age of subadult males on the hauling grounds. Such a shift in age structure would be expected to occur in response to the increased survival of each year class since the termination of the commercial harvest in 1985.

The estimated mean weight of meat taken per seal in 1987 was approximately 10.4 kg (22.9 lb) per seal. This is somewhat less than the 12.5 kg per seal taken in 1985, and the 11.1 kg taken per seal in 1986. As in 1986, there was no community storage of meat in 1987. Many of the persons who placed large orders for seals (15–40 animals) indicated that they were planning to freeze or salt much of the meat for later consumption. To facilitate the packaging and freezing of subsistence meat, the Aleut Community of St. Paul allowed individuals to use the fish-processing plant and freezer to process and store seal meat.

The estimated total amount of meat taken for human consumption on St. Paul in 1987 was approximately 17,700 kg (39,000 lb). Assuming that the native population of St. Paul Island is 483 (1980 Census data), the 17,700 kg of meat

taken for human consumption would allow a theoretical mean daily consumption of 0.1 kg (about 3.5 oz) per person for one year. This is slightly in excess of the theoretical mean daily consumption which could have resulted from the 1986 harvest (0.08 kg; about 3.0 oz).

Unlike 1986, when most skins were discarded, the first 1,600 pelts taken in 1987 were preserved using traditional methods. These skins are presently being stored on St. Paul Island. There was no observed taking of bacula in 1987 and random checks at the dump indicated that no unobserved takings of bacula had occurred.

(b) *St. George Island*. Although NMFS observers were present at each of the harvests held on St. George Island, the small number of animals taken did not provide an opportunity for the collection of sufficient data comparable to that collected on St. Paul Island. Visual observation of the two harvests on St. George indicated that substantial use was being made of the animals.

(3) Estimated Number of Seals Needed For Subsistence in 1988

NMFS is required by its regulations to include in this notice a discussion of the anticipated harvest levels for 1988 that will satisfy the subsistence needs of the residents of the Pribilof Islands. Because employment levels continue to fluctuate on each Island, and economic conditions remain unpredictable, the Pribilovians' needs for seal meat may vary from year to year. For instance, in 1987 there was relatively high unemployment on St. Paul Island and relatively low unemployment on St. George Island. In 1988, the opposite may be true. Breakwater building, which had employed much of the available work force on St. George Island in 1987 is now essentially complete. On St. Paul Island, where no breakwater construction occurred in 1987, breakwater construction should be a major source of employment in 1988. Because of these changing economic conditions, and because purely subsistence harvests have only been conducted for three years under evolving conditions, it may not be possible to provide a specific estimate of the subsistence needs for each Island. Therefore, as in previous years, the NMFS is proposing a projected range of expected harvest levels.

During the 1987 harvest, 1,600 seals were harvested on St. Paul Island during the June 30–August 8 season. A survey of Island residents conducted shortly thereafter indicated that an additional 211 seals would be needed to meet the remaining subsistence needs. Since the

1987 harvest was carried out on a personal-demand basis, and since the August survey was carried out by Island residents without any known bias, it must be assumed that the number of seals needed by residents of St. Paul Island in 1987 was 1,811. However, as described above, until harbor construction on St. Paul Island has been completed, and the economy stabilized, it may be difficult to estimate each year's subsistence needs. Based on the 1986 and 1987 harvests, the lower bound of the range of projected subsistence needs may be set at 1,800 seals. This is in excess of the requested number of seals in 1986 (1,587 seals), but less than the number requested in 1987 (1,811). Once the lower bound is reached, the harvest must be suspended for up to 48 hours, under 50 CFR 215.32(e)(1)(iii), pending a review of the harvest data to determine if the subsistence needs of St. Paul Island residents have been met. The upper end of the range for 1988 is set at 2,500 seals which is somewhat less than the level allowed in 1987, but still provides room for a reasonable increase over 1986 and 1987 harvest levels should unforeseen circumstances arise.

The number of seals harvested on St. George Island in 1986 and 1987 may under represent the true subsistence needs of Island residents for seal meat. Because the labor force was fully utilized during these years, there was reduced incentive for harvesting seals. What harvesting did occur in 1987 was carried out on Saturdays because the experienced sealers were too fatigued from harbor construction or commercial fishing to harvest seals during weekdays. Although the breakwater on St. George Island is essentially complete, there will be a lag of some years before the harbor can be fully completed and utilized. Thus, unemployment may be higher on St. George Island in 1988, and there may be an increased incentive to harvest seals. It is reasonable to assume that harvest levels on St. George Island in 1988 may, on a per-capita basis, more closely parallel those on St. Paul Island. Since the population of St. George Island is approximately one-third that of St. Paul Island, the lower end of the projected range for that island is proposed as 600 seals. The upper end of the range is accordingly proposed as 833 seals.

References

- Veltre, D.W. and M.J. Veltre. 1981. A preliminary baseline study of subsistence resource utilization in the Pribilof Islands. Subsistence Division, Alaska Department of

Fish and Game, P.O. Box 3-2000, Juneau, AK, 99802. Technical Paper 57, 216p.

Zimmerman, S.T. and J.P. Letcher. 1986. The subsistence harvest of northern fur seals, *Gallorhinus ursinus*, on St. Paul Island, Alaska. *Marine Fisheries Review* 48(1):10-14.

Zimmerman, S.T. and M.D. Melovidov. In Press. The 1986 subsistence harvest of northern fur seals, *Gallorhinus ursinus*, on St. Paul Island, Alaska. *Marine Fisheries Review*.

Dated: May 12, 1988.

James E. Douglas, Jr.,
Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 88-11130 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 222

[Docket No. 80355-8055]

Listing Endangered and Threatened Species; Action on a Petition To List the Chinese River Dolphin

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: In response to a petition to add the Chinese river dolphin (*Lipotes vexillifer*) to the U.S. List of Endangered and Threatened Wildlife, NMFS conducted a status review to determine whether the action is warranted. NMFS believes that the best available scientific and commercial data indicated that the population of the Chinese river dolphin is endangered and should be listed on the U.S. List of Endangered and Threatened Species.

DATE: Comments on the proposed rule should be received by July 18, 1988.

ADDRESS: Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT:

Margaret Lorenz, Office of Protected Resources, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (202/673-5349).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act (ESA) and 50 CFR Part 424 contain provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add or remove a species from the List of Endangered and Threatened Wildlife.

On December 3, 1986, NMFS received a petition from the Center for Environmental Education to list the Chinese river dolphin (*Lipotes vexillifer*)

as an endangered species. According to the petition, this river dolphin is found primarily in the lower and middle sections of the Chang Jiang (Yangtze) River in the eastern, central region of mainland China.

On February 14, 1987, the Assistant Administrator for Fisheries determined that the petition presented substantial scientific information and, in the *Federal Register*, solicited information and comments concerning the status of the Chinese river dolphin. Comments were received from the U.S. Fish and Wildlife Service and Chen Peixun of the Institute of Hydrobiology in the People's Republic of China. Both favored listing the Chinese river dolphin as endangered.

The following status review was conducted by Robert L. Brownell, U.S. Fish and Wildlife Service, and William F. Perrin and Douglas P. DeMaster, NMFS.

Status Review

The Chinese river dolphin is also called baiji and Yangtze river dolphin. In this review, it will be referred to as baiji.

Distribution

a. Present: The baiji is found mainly in the middle and lower reaches of the Yangtze River.

b. Past: From the end of the 19th Century until the 1940's, the range of the baiji extended from the estuary of the Yangtze River to Yichang and even some 30 km upstream near Huanglingmiao just below the Three Gorges Region. As recently as 1955, it was found in the Qiantang River up to Fuyang County and sometimes reached Tonglu County, (Zhou, Qian, and Li, 1977). However, since 1974, these dolphins have been found only in the Yangtze River downstream from Zhicheng. They no longer occur in Dongting (Tungting) Lake, Hunan County, where the type specimen was collected in 1916 (Brownell and Herald, 1972), or the Qiantang River.

Estimated Numbers

The geographic distribution, and hence the population size, has declined drastically since the species was originally described. Work on estimation of the population size did not begin until 1979. Between 1979 and 1981, it was estimated that less than 400 occurred in the middle and lower reaches of the Yangtze River (Zhou, Pilleri and Li, 1980; Zhou, Li, Nishiwaki and Kataoka, 1982; Zhou, 1982). The most recent reports on the status of this species were provided by Zhou and Li, in press, and Chen and Hua, in press. The total world population currently

consists of an estimated 300 individuals (Chen and Hua, in press), of which about 100 occur in the lower reaches of the river (Zhou, and Li, in press). The population is fragmented in small groups dispersed along approximately 1600 km of river habitat. Census results suggest that the population is still declining. If the current rate of decline is not mitigated, it is unlikely that the Yangtze river dolphin population will persist for more than 20 to 50 years (See Goodman 1984, 1986 and Berkson et al. (1985). This figure is based on the population continuing to decline at 5 percent per year and a level of incidental take of 10 percent per year. An estimate of how long Chinese river dolphins are expected to survive as a species (i.e., persistence time) was found to be quite sensitive to the level of incidental take. Additional research on the expected persistence time of the Yangtze river dolphin is underway by Chinese scientists (Perrin and Brownell, in press).

Present Legal Status

a. International: The International Union for Conservation of Nature and Natural Resources (I.U.C.N.) originally listed the baiji as "indeterminate" due to lack of data (I.U.C.N. Red Data Book, 1976), but now considers it "endangered" (1986 I.U.C.N. Red List of Threatened Animals). The baiji is also listed on Appendix 1 of the Convention on International Trade of Endangered Species of Wild Flora and Fauna (CITES).

b. National: The baiji is a "Protected Animal on the First Order" in the People's Republic of China, and its protection has a high priority; it is illegal to deliberately catch these animals under the Regulations Regarding the Propagation and Protection of Fishery Resources and the State Council Decree Concerning the Strict Protection of the Rare Wild Animals (Zhou, 1986). In the areas where the baiji is the most common, Hubei and Anhui Provinces, a council has been set up to educate the public about the baiji.

Listing Factors

1. The present or threatened destruction, modification, or curtailment of its habitat or range: The banks of the Yangtze River have been extensively modified to prevent floods. Most of the lakes along the river have been isolated by sluice gates to retain the water in the lakes during the dry season for irrigation and fish culture. Because the lakes are important nursery areas for many fish species, this isolation may have had adverse effects on the baiji by changing

fish biomass and species composition in the river. A hydroelectric dam was completed in 1983 below the Three Gorges and another is planned in the Three Gorges region. To date, research has not detected adverse effects of the existing dam on most fish populations. A study of the effects of the proposed new dam on the baiji's habitat has been carried out, but the report is not yet available in an English translation.

Some fish stocks in the river appear to be greatly reduced due to the loss of nursery areas for migratory species, overfishing, and pollution (Zhou and Li, in press). Thus reduction in prey availability may have played an important role in the decline of the baiji.

2. Overutilization for commercial, recreational, scientific or educational purposes: The baiji is not directly exploited.

3. Disease or predation: Nothing is known about these factors. However, based on examination of those dead dolphins recovered, neither appears to be a major problem.

4. The inadequacy of existing regulatory mechanisms: Information is not available about this factor.

5. Other natural or man-made factors: Human use of the Yangtze River is extensive. Over the last 35 years, increasing industrial activity, boat traffic, and exploitation of fish resources have combined to degrade the baiji's habitat (Zhou, 1986). The baiji suffers from various forms of human-induced mortality, the most serious of which seems to be accidental entanglement in bottom longlines, called "rolling hooks", set to snag bottom-feeding fish such as sturgeon. Baiji are also taken incidentally in fish traps and gillnets. Fishing gear may account for almost half the known baiji mortality (Lin, Chen, and Hua, 1985; Zhou and Li, in press).

Some dolphins are killed by boat propellers; this problem appears to be most serious in the lower reaches of the river where boat traffic is heaviest and expected to double in the next ten years (Zhou and Li, in press).

Explosions, usually associated with construction projects but occasionally with illegal fishing, account for 15–20 percent of known baiji deaths (Zhou and Li, in press; Chen and Hua, in press). Six dolphins were killed in one construction blast. Conclusion

We believe that the best available scientific and commercial data indicate that the population(s) of the Chinese

river dolphin is endangered and should be listed on the U.S. List of Endangered and Threatened Species.

References

- Berkson, J.M., and D. P. DeMaster. 1972. A test for determining extinction times with practical applications. Southwest Fisheries Center Admin. Rpt. LJ-85-08.
- Brownell, R. L., Jr. and E. S. Herald. 1972. *Lipotes vexillifer*. Mammalian Species 10:1-4
- Chen Peixun and Hua Huanyu. In press. Distribution, population size and protection *Lipotes vexillifer*. IN. W. F. Perrin, R. L. Brownell, Jr., Zhou Kaiya and Liu Jiankang (eds.). Biology and Conservation of the River Dolphins. Occasional papers of the IUCN Species Survival Commission 5.
- Goodman, D. 1986. Estimating the expected recovery time for depleted population of marine mammals. Contract Report for Marine Mammal Commission 3309552-3.
- Goodman, D. 1984. The minimum viable population problem I. The demography of chance extinction. Southwest Fisheries Center Admin. Rpt. LJ-84-44C, under Contract NOAA 84-ABC-00173.
- Lin Kejie, Chen Peixun and Hua Yuanyu. 1985. Population size and conservation of *Lipotes vexillifer*. Acta Ecologica Sinica 5:77-85.
- Perrin, W. F. and R. L. Brownell, Jr. In press. Report of the Workshop. IN. W. F. Perrin, R. L. Brownell, Jr., Zhou Kaiya and Liu Jiankang (eds.). Biology and Conservation of the River Dolphins. Occasional Papers of the IUCN Species Survival Commission 5.
- Zhou Kaiya. 1982. On the conservation of the baiji, *Lipotes vexillifer*. Journal of Nanjing Normal College (Natural Sciences) 1982:71-74.
- Zhou Kaiya. 1986. A project to translocate the baiji, *Lipotes vexillifer*, from the main-stream of the Yangtze River to Tongling Baiji semi-nature Reserve. Aquatic Mammals 12:21-24.
- Zhou Kaiya and Li Yuemin. In press. Status and aspects of ecology and behavior of the baiji in the lower Yangtze River. IN. W. F. Perrin, R. L. Brownell, Jr., Zhou Kaiya and Liu Jiankang (eds.). Biology and Conservation of the River Dolphins. Occasional Papers of the IUCN Species Survival Commission 5.
- Zhou Kaiya, G. Pilleri and Li Yuemin. 1980. Observations on baiji (*Lipotes vexillifer*) and finless porpoise (*Neophocaena asiatica*) in the lower reaches of the Chang Jiang. Scientia Sinica 23:785-795.
- Zhou Kaiya, Qian Weijuan and Li Yuemi. 1977. Studies on the distribution of baiji, *Lipotes vexillifer* Miller. Acta Zoologica Sinica 23:72-79.

Recommended critical habitat

In the final rule regarding listing of species (50 CFR Part 424.12(H)), critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction.

Classification

The 1982 Amendments to the ESA (Pub. L. 97-304), in Section 4(b)(1)(A), restrict the information which may be considered when assessing species for listing. Based upon this limitation of criteria for a listing decision and the opinion in Pacific Legal Foundation v. Andrus, 875 F. 2d 829 (6th cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 44113-23; February 6, 1984).

As noted in the Conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, endangered and threatened wildlife, exports, fish, import, marine mammals, reporting and recordkeeping requirements, transportation.

Dated May 12, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries.

For the reasons described in the preamble, Part 222 of Title 50 of the Code of Federal Regulations is proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for Part 222 continues to read as follows:

Authority: Endangered Species Act of 1973, 16 U.S.C. 1531-1543.

§ 222.23 [Amended]

2. Section 222.23(a) of Subpart C is amended by adding the phrase "Chinese river dolphin (*Lipotes vexillifer*)" immediately after the phrase "cochito (*Phocoena sinus*)" in the second sentence.

[FR Doc. 88-11122 Filed 5-7-88; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 13, 1988.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) title of the information collection; (3) form number(s), if applicable; (4) how often the information is requested; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- *Food and Nutrition Service*
Multi Food Requisition.
FNS 53.
On occasion.
State or local governments; 1,080
responses; 3,240 hours; not
applicable under 3504(h).
Robert Beard (703) 756-3660.
- *Food and Nutrition Service*
Report of Coupon Issuance and
Commodity Distribution for
Disaster Relief.
FNS 292.
Recordkeeping: On occasion.
State or local governments; 100
responses; 97 hours; not applicable
under 3504(h).
Alan Rich (703) 756-3100.
- *Food and Nutrition Service*
Participation by Charitable
Institutions.
FNS 706-1.
Semi-Annually.
State or local governments; 57
responses; 171 hours; not applicable
under 3504(h).
Robert Beard (703) 756-3660.
- *Food and Nutrition Service*
Food Requisition.
FNS 52.
On occasion.
State or local governments; 8,736
responses; 17,472 hours; not
applicable under 3504(h).
Robert Beard (703) 756-3600.

Reinstatement

- *Food and Nutrition Service*
Food Stamp Program Regulations, Part
275—Quality Control (Reporting
and Recordkeeping).
Recordkeeping: On occasion.
State or local governments; 53
responses; 266 hours; not applicable
under 3504(h).
Joseph H. Pinto (703) 756-3471.

Revision

- *Food and Nutrition Service*
Report of School Program Operations.
FNS 10.
Monthly; Annually.
State or local governments; 2,976
responses; 110,112 hours; not
applicable under 3504(h).
Alan Rich (703) 756-3100.

Larry K. Roberson.

Acting Departmental Clearance Officer.
[FR Doc. 88-11159 Filed 5-17-88; 8:45 am]

BILLING CODE 3410-01-M

Federal Register

Vol. 53, No. 96

Wednesday, May 18, 1988

Food Safety and Inspection Service

[Docket No. 88-012N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Technical Services, Food Safety and Inspection Services (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Acting Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132 and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy

memoranda issued from October 1, 1987, through April 1, 1988.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a

list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food

Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
005A	Labeling of Certain Cooked Sausage Products Containing Both Livestock and Poultry Ingredients, November 25, 1987.	What names should be used to identify nonstandardized cooked sausages of the frank, bologna, vienna, and knockwurst variety which contain both livestock and poultry ingredients?	Supercedes Policy Memo 005; 9 CFR 319.180; Policy Memo 087A.
070B	Fat and Lean Claims, November 18, 1987.....	What are the guidelines for the review and approval of labeling claims relating to the fat and lean content of meat and poultry products?	Replaces Policy Memo 070A.
085B	Nutrition Labeling Verification Procedures, January 26, 1988.	What is required to assure the continued accuracy of nutrient claims, including calorie, protein, lean, fat, cholesterol, salt, and sodium content on labeling?	Replaces Policy Memo 085A; Policy Memo 047A.
108A	Water-Misted and Ice-Glazed Meat and Poultry Products, December 4, 1987.	What is the appropriate labeling for meat and poultry products that are protected with a thin layer of water or ice?	Replaces Policy Memo 108.
109	Labeling Prominence Guidelines for Cured, Cooked Products with Added Substances That Do Not Return to Green Weight, October 8, 1987.	What guidelines are needed to assure the product name and product name qualifiers for cured cooked products with added substances, that weigh more than the weight of the fresh uncured article (the green weight), are prominently disclosed?	9 CFR 319.100, 319.101, 319.102, 319.104; Policy Memos 057A, 084; and 087A; 9 CFR 317.2(b).
110	Perishable, Uncured Meat and Poultry Products in Hermetically Sealed Containers, December 8, 1987.	What additional requirements are necessary to obtain approval and use of final labels for certain perishable uncured meat and poultry products packaged in hermetically sealed (airtight or impervious) containers bearing a "Keep Refrigerated" or similar statement?	9 CFR 318 and 381, subparts G and X.

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by a future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done at Washington, DC, on May 13, 1988.
Ashland L. Clemons,
*Acting Director, Standards and Labeling
Division, Technical Services, Food Safety and
Inspection Service.*
[FR Doc. 88-11093 Filed 5-17-88; 8:45 am]
BILLING CODE 3410-DM-M

Rural Electrification Administration

Intent to Conduct Public Scoping Meeting and Prepare an Environmental Assessment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of intent to conduct a public scoping meeting and prepare an environmental assessment.

SUMMARY: The Rural Electrification Administration (REA) intends to conduct a public scoping meeting and prepare an Environmental Assessment (EA) in connection with possible REA approvals relating to a project proposed by Southern Maryland Electric Cooperative, Inc. (SMECO), of Hughesville, Maryland. The project consists of the construction and operation of a 70 megawatt (MW)

combustion turbine generating unit. SMECO's preferred location is the Chalk Point Generating Station site of Potomac Electric Power Company. The site is located near the Patuxent River in southeastern Prince Georges County, Maryland.

DATE: The REA will conduct the public scoping meeting on June 22, 1988 at the SMECO Headquarters Meeting Room in Hughesville, Maryland, at 7:30 p.m.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meeting in order for comments to be part of the formal record. Comments should be sent to Mr. James A. Ruspi, Chief, Distribution and Transmission Engineering Branch, Northeast Area—Electric, Rural Electrification Administration, Room 0250, South Agriculture Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Ruspi, Northeast Area—Electric, above address, telephone (202) 382-1432 or FTS 382-1432, or Mr. Richard J. McCoy, Southern Maryland Electric Cooperative, Inc., Route 231, Hughesville, Maryland, 20637-9501, telephone (301) 274-3111.

SUPPLEMENTARY INFORMATION: REA, in order to meet requirements under the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations (40 CFR Part 150) and REA Environmental Policies and Procedures (7 CFR Part

1794), intends to conduct a public scoping meeting and prepare an Environmental Assessment. This notice is in connection with possible REA approvals relating to a proposal by SMECO for the construction and operation of a 70 MW combustion turbine generating unit in Prince Georges County, Maryland.

The proposed project will enable SMECO to provide a portion of its consumers' electrical power requirements.

Alternatives to be considered by REA include, among other options: (1) No action; (2) conservation and load management; (3) joint participation in the generation project of another utility; (4) alternative methods of generation; and (5) alternative sites.

The public scoping meeting to be conducted by REA, will be held to solicit public input and comments including but not limited to, the nature of the proposed projects, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the EA. Requests for additional information concerning the meeting may be directed to either REA or SMECO at the addresses shown above. Copies of the Alternatives Analysis and Site Selection Study are available for public review at the offices of REA, SMECO and at the public libraries in La Plata, Oxon Hill, Prince Frederick and Upper Marlboro.

Any REA approval will be subject to and contingent upon reaching

satisfactory conclusions with respect to the environmental effects of the project, and final action will be taken only after compliance with environmental procedures required by NEPA.

This program is listed in the Catalog of Federal Domestic Assistance under 10.8509—Rural Electrification Loans and Loan Guarantees. For reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Date: May 12, 1988.

John H. Arnesen,
Assistant Administrator—Electric.
[FR Doc. 88-11092 Filed 5-17-88; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Quarterly Apparel Survey.
Form Number: Agency—MQ-23A;
OMB-0607-0560.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 2,000 respondents; 4,000 reporting hours.

Needs and Uses: In October 1986,

Congress amended Title 13 to require Census to collect quarterly data on domestic production of apparel and textiles. These data are needed to monitor the effect of imports on the domestic apparel industry.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.
OMB Desk Officer: Francine Picoult, 395-7340.

Agency: Bureau of the Census.

Title: Broadwoven Fabrics (Gray).

Form Number: Agency—MQ-22T; OMB-0607-0558.

Type of Request: New collection.

Burden: 341 respondents; 1,724 reporting hours.

Needs and Uses: The purpose of this survey is to monitor trade agreements with foreign countries. Census is requesting that this survey be done on a mandatory basis because the current voluntary survey does not produce data in a timely manner.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.
OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: May 12, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-11071 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trades Zones Board

[Order No. 382]

Disapproval of Application of the Rhode Island Port Authority for Subzone Status for Pawtucket Fasteners, Inc., Pawtucket, RI

Pursuant to its authority under the Foreign-Trades Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trades Zones Board Regulations (15 CFR Part 400), the Foreign-Trades Zones Board (the Board) adopts the following order:

WHEREAS, the Rhode Island Port Authority and Economic Development Corporation, Grantee of Foreign-Trades Zone No. 105, has made applications (filed October 23, 1985, FTZ Doc. 40-85, 50 FR 46678) to the Board for authority to establish a special-purpose subzone at the stainless steel fastener manufacturing plant of Pawtucket Fasteners, Inc., In Pawtucket, Rhode Island;

WHEREAS, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

WHEREAS, the Board, having reviewed the proposal in the light of the Government's steel policy and the special import relief program on certain stainless steel mill products, has determined that approval of the proposal would not be in the public interest because it would tend to encourage imports of stainless steel rod and bar and result in a net negative economic impact;

NOW, THEREFORE, the Board hereby orders:

That the application filed October 23, 1985 (FTZ Doc. 40-85) is disapproved.

Signed at Washington, DC, this 4th day of May, 1988.

Joseph A. Sperini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest: John J. Da Ponte, Jr., Executive Secretary.

[FR Doc. 88-11030 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 23-88]

Proposed Foreign-Trade Zone for Victoria and Calhoun Counties, Texas, With Two Subzones in Victoria County for CMC Steel Fabricators, Inc.; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Calhoun-Victoria Foreign-Trade Zone, Inc. (CVFTZ), a non-profit Texas Corporation, requesting authority to establish a general-purpose foreign-trade zone in Calhoun and Victoria Counties, Texas, and two special-purpose subzones in Victoria County, all sites of which would be within or adjacent to the Point Comfort Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 27, 1988. CVFTZ is authorized to make the proposal under House Bill 83, 69th Texas Legislature, Third Call Session, 1988, signed on October 15, 1986.

The proposal calls for a general-purpose zone consisting of six sites totalling 1,235 acres in Calhoun and Victoria Counties. Sites 1, 2, and 3 are located in Calhoun County; Sites 4, 5, and 6 are in Victoria County. Site 1 (97 acres) is at the Calhoun County Navigation District's marine terminal, located at Point Comfort two miles south of U.S. Highway 35 on FM 1395. The site contains a public dock and 25,000 square feet of warehouse space and is expected to be the first to be activated for Calhoun County. Site 2 (494 acres) is adjacent to Site 1 on its north. It is owned by the Aluminum Company of America (Alcoa) and contains a bauxite processing facility, part of which is currently active. Site 3 (120 acres) is the Westside Navigation District's Long Mott Turning Basin property, located between State Highway 185 and the Victoria Barge

Canal, near the Union Carbide dock. The site is about 12 miles west of Sites 1 and 2. The Calhoun County Navigation District will operate all three sites, using Sites 2 and 3 for longer-term development (industrial/commercial activity) for large industrial users. Site 4 (135 acres), owned by Victoria County, is located at the Victoria Regional Airport on U.S. Highway 59, and development as an industrial park is planned. Site 5 (29 acres), known as Skytop Brewster, is located at Skytop and Moller Roads in eastern Victoria, about 1 mile from Site 4. The privately owned site has over 255,000 square feet of manufacturing, office and warehouse space that is available for immediate activation. The site was formerly used for the assembly of oil rigs and can be utilized for both warehousing and manufacturing operations. This site is expected to be the focus of the County's initial zone activity. Site 6 (359 acres) is the Victoria Navigation District's Pickering Turning Basin property at the north end of the Victoria Barge Canal. It is located about 12 miles southwest of Sites 4 and 5, and industrial/commercial development is anticipated. The latter three sites will be operated by the Victoria Economic Development Corporation.

No manufacturing approvals are being sought at this time for the general-purpose zone sites. Such requests would be made to the Board on a case-by-case basis.

The two proposed subzones are for the railroad freight car repair and rebuilding facilities of Safety Railway Service and Safety Steel Service, operating divisions of CMC Steel Fabricators, Inc., a Texas corporation. The Safety Railway facility (176 acres) is located at Aloe Field at the corner of Warehouse Road and Highway 59, four miles west of the City of Victoria, and the Safety Steel plant (7 acres) is located at 201 East Crestwood Street, Victoria. The plants use some parts and steel material from foreign sources for their operations. Safety Railway expects to use imported parts, such as wheels, axles, sideframes and bolsters, dutiable at 5.5 percent, in the repair of railroad freight cars, which are dutiable at 18 percent. Safety Steel imports steel, dutiable at 6 percent, for the sizing, cutting, shaping and welding of parts (5.5%) which would then be supplied to Safety Railway for their repair operation. Safety Steel estimates that 15 percent of the steel it presently uses is imported. It expects an increase to 20 percent in the near future. The application indicates that the main purpose for zone procedures is to assist

the companies in obtaining contracts for the repair and rebuilding of foreign-owned railroad freight cars for reexport.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Don Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 Sal Felipe Street, Houston, Texas, 77057-3012; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553-1229.

As part of its investigation, the examiners committee will hold a public hearing on June 16, 1988, beginning at 9 a.m., at the Calhoun County Courthouse, 211 South Ann Street, Port Lavaca, Texas 79979.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by June 13, 1988. Instead of an oral presentation, written statements (triplicate) may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 18, 1988.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

County Judge's Office, Calhoun County, 2nd Floor, Calhoun County Courthouse, 11 South Ann Street, Port Lavaca, Texas 79979.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue NW, Washington, DC 20230.

Dated: May 10, 1988.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 88-11029 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-427-009]

Industrial Nitrocellulose From France; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner and Societe Nationale des Poudres et Explosifs ("SNPE"), the Department of Commerce ("the Department") has conducted an administrative review of the antidumping order on industrial nitrocellulose from France. The review covers SNPE, the only known manufacturer and/or exporter of French industrial nitrocellulose to the United States, and the period August 1, 1986 through July 31, 1987. The review indicates the existence of dumping margins for the firm during the period.

The Department tentatively determined to revoke the order on industrial nitrocellulose from France in the preliminary results of the last administrative review published in the *Federal Register* (53 FR 7773) on March 10, 1988. Since we found margins in the current review, the Department has preliminarily determined not to revoke the antidumping duty order. As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Phyllis Derrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1988, the Department published in the *Federal Register* (53 FR 15262) the final results of its last administrative review of the antidumping order on industrial nitrocellulose from France (48 FR 36303, August 10, 1983). SNPE and the petitioner requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published the notice of initiation on September 21, 1987 (52 FR 35486). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of industrial nitrocellulose containing between 10.8 and 12.2 percent nitrogen. Industrial

nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. These imports are currently classifiable under item 445.2500 of the *Tariff Schedules of the United States Annotated* and under item numbers 3012.20.00 and 3912.90.00 of the Harmonized System.

The review covers SNPE, the only known manufacturer and/or exporter of French industrial nitrocellulose to the United States, and the period August 1, 1986 through July 31, 1987.

United States Price

In calculating the United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the c.i.f. packed price to unrelated purchasers in the United States. We made deductions, where applicable, for foreign inland freight, ocean freight, marine insurance, U.S. inland freight, and brokerage and handling. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the packed, delivered price to unrelated purchasers in the home market. We made adjustments, where applicable, for inland freight, inland insurance, brokerage and handling, loyalty discounts, rebates, discounts, quantity adjustments, and differences in the physical characteristics of the merchandise, credit, and packing. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that a margin of 4.39 percent exists for Societe National des Poudres et Explosifs for the period 8/1/86 through 7/31/87.

The Department tentatively determined to revoke the order on industrial nitrocellulose from France in the preliminary results of the last administrative review published in the *Federal Register* (53 FR 7773, March 10, 1988). Since we found margins in the current review, the Department has

preliminarily determined not to revoke the antidumping duty order.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication, or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in these comments, may be filed not later than 32 days after the date of publication.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margin shall be required for SNPE. For any further entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after July 31, 1987 and who is unrelated to the reviewed firm, a cash deposit of 4.39 percent shall be required. These cash deposit requirements are effective for all shipments of French industrial nitrocellulose, entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: May 11, 1988.

*Joseph A. Spetrini,
Acting Assistant Secretary for Import
Administration.*

[FR Doc. 88-11150 Filed 5-17-88; 8:45 am]
BILLING CODE 3510-DS-M

[A-489-501]

Certain Welded Carbon Steel Pipe and Tube Products From Turkey; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner and a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube products from Turkey. The review covers three manufacturers and/or exporters of this merchandise to the United States and the period January 3, 1986 through April 30, 1987. The review indicates the existence of dumping margins for these firms during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Because one firm did not respond to the Department's questionnaire, we used the best information available for that firm.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1986, the Department of Commerce ("The Department") published in the *Federal Register* (51 FR 17784) the antidumping duty order on certain welded carbon steel pipe and tube products from Turkey. The petitioner and a respondent requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on June 19, 1987 (52 FR 23330). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS"). In view of this, we will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("TSUSA") item numbers

and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs officer to consult the schedule.

Imports covered by this review are shipments of certain welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches of any wall thickness, currently classifiable under TSUSA items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 and HS item numbers 7306.30.50 and 7306.30.10. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably as A-120, A-53, or A-135.

The review covers three manufacturers and/or exporters of Turkish welded carbon steel pipe and tube products to the United States and the period January 3, 1986 through April 30, 1987. One firm, Yucel Boru, did not respond to our questionnaire; therefore, for this firm we used the best information available, which is the highest rate for responding firms with shipments during the period.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed f.o.b. or c.i.f. price to unrelated purchasers in the United States. We made adjustments, where applicable, for brokerage fees, foreign inland freight, rebates, countervailing duties, U.S. import duties, and foreign import duty drawback. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the

home market to provide a basis for comparison. Home market price was based on the packed, ex-factory or delivered price to related and unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, discounts, and differences in credit expenses, physical characteristics of the merchandise, and packing. No other adjustments were claimed or allowed. For Erkboru we investigated and found that there were home market sales below the cost of production. Since the remaining sales above cost were insufficient to constitute a viable market, we used constructed value, as defined in section 773(e) of the Tariff Act. Constructed value consisted of the sum of materials and fabrication costs, general expenses, profit, and packing. For general expenses we used actual costs because they exceeded the ten percent statutory minimum. For profit we used the statutory eight percent of materials, fabrication, and general expenses because the actual profit was less than the statutory eight percent.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer	Time period	Margin (percent)
Borusan.....	1/3/86-4/30/87	0.03
Erkboru	1/3/86-4/30/87	31.13
Yucel Boru.....	1/3/86-4/30/87	31.13

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market

value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for all shipments by the reviewed firms of Turkish welded carbon steel pipe and tube products. Since the margin for Borusan is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for this firm. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the antidumping duty order for these firms (51 FR 17784, May 15, 1986). For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments occurred after April 30, 1987 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 31.13 percent shall be required. These deposit requirements are effective for all shipments of Turkish welded carbon steel pipe and tube products entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and 19 CFR 353.53a.

Dated: May 11, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-11149 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DS-M

The MCTL Implementation Technical Advisory Committee; Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held June 9, 1988, 9:30 a.m., Herbert C. Hoover Building, Room 5230, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises and assists the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations and provides for continuing

review to update the Regulations as needed.

Agenda:

Open Session

1. Opening Remarks by the Chairman.
2. Introduction of Members & Public Attendees.
3. Introduction of Invited Guests.
4. Presentation of Papers or Comments by the Public.
5. Subcommittee Report on Pilot Study of the MITAC proposal on Technical Data.
6. Status Report on Review Initiated at the Public Forum on Technical Data.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended that the series of meetings or portions of meetings of the committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes contact Ruth D. Fitts, 202-377-2583.

Date: May 11, 1988.

Betty A. Ferrell,

Acting Director, Technical Support Staff,
Office of Technology and Policy Analysis.
[FR Doc. 88-11070 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DT-M

Minority Business Development Agency

Business Development Center Applications; New Brunswick, NJ

AGENCY: Minority Business Development Agency, Commerce.
ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve months is estimated at \$165,000 for the project performance of *October 1, 1988* to *September 30, 1989*. The MBDC will operate in the *New Brunswick, New Jersey* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of \$165,000 in Federal funds and a minimum of \$29,118 in Non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to

determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is June 27, 1988.

Applications must be postmarked on or before June 27, 1988.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, Room 3720, New York, New York 10278, (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director New York Regional Office at (212) 264-3262.

SUPPLEMENTARY INFORMATION:

Questions concerning the preceding information copies of application kits and applicable regulations can be obtained at the above address. A pre-application Conference to assist all interested applicants will be held on June 8, 1988, at 10:00 a.m. in New Brunswick, NJ, 390 George St., 2nd Floor. (201) 745-5050 (at the office of New Brunswick Tomorrow).

William R. Fuller,

Deputy Regional Director, New York Regional Office.

May 11, 1988.

[FR Doc. 88-11068 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

National Fish and Seafood Promotional Council

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

Time and Date: The meeting will convene at 8:00 a.m., June 1, 1988, and adjourn approximately 4:30 p.m., June 2, 1988.

Place: Hyatt Regency Chicago, 151 East Wacker Drive, Chicago, IL 60601.

Status: NOAA announces a meeting of the National Fish and Seafood Promotional Council (NFSPC). The NFSPC, consisting of 15 industry members and the Secretary of Commerce as a non-voting member, was established by the Fish and Seafood Promotion Act of 1986 to carry out programs to promote the consumption of fish and seafood and improve the competitiveness of the U.S. fishing industry.

The NFSPC is required to submit an annual plan and budget to the Secretary of Commerce for his approval that describes the marketing activities the

NFSPC intends to carry out. Funding for the NFSPC activities are provided for through Congressional appropriations and private donations.

Matters to be Considered

Portion Opened to the Public: June 1, 1988

8:00 am—8:15 am—Council Chairman's opening remarks
1:00 pm—3:00 pm—Discussion of inland/Great Lakes fisheries, approval of minutes from last meeting, status of qualitative, quantitative and omnibus market research studies.

June 2, 1988

10:00 am—4:30 pm—Proposal to fund news media person, discussion of marketing plan, status of advertising agency procurement, seafood cookoff, pending issues, and Council meeting schedule.

Portion Closed to the Public: June 1, 1988

8:15 am—12:00 noon—Status of Executive Director selection process; interview of finalists.

June 2, 1988

8:00 am—10:00 am—Vote/discussion on selection of an Executive Director

FOR FURTHER INFORMATION CONTACT:

Jeanne M. Grasso, Program Coordinator, National Fish and Seafood Promotional Council, 1825 Connecticut Avenue, NW., Room 618, Washington, DC 20235. Telephone: (202) 673-5237.

Dated: May 13, 1988.

Carmen J. Blondin,
Director, Office of Trade and Industry Services.

[FR Doc. 88-11151 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Cetus Corp.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Cetus Corporation, having a place of business in Emeryville, CA., an exclusive license in the United States to practice the invention entitled "Method of Controlling Graft Versus Host Reaction", U.S. Patent Application No. 6-792,836 (U.S. Patent No. 4,670,567). The patent rights in these inventions have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published

Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Pavan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88-11107 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-04-M

Also see 51 FR 4409 published on February 4, 1986.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 13, 1988.

Commissioner of Customs,
*Department of the Treasury,
Washington, DC 20229.*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on January 30, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in Peru for which the Government of Peru has not issued an appropriate export visa or exempt certification.

Enclosed is a facsimile of a new exempt certification stamp, allowing more space to describe exempted articles. This stamp replaces the one currently being used by the Government of Peru.

Effective on June 1, 1988, you are directed to permit entry of shipments of cotton, wool and man-made fiber textile products, produced or manufactured in Peru and exported on or after June 1, 1988 for which the Government of Peru has issued the new exempt certification stamp.

Shipments covered by the old certification stamp (exported prior to June 1, 1988) will not be denied entry.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-11146 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Turkey

May 13, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 19, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the *Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated* (see *Federal Register* notice 52 FR 47742, dated December 11, 1987).

FOR FURTHER INFORMATION CONTACT:

Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of the current limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6582. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limit for Category 361 is being increased by the addition of shift. The limit for Category 317, for the period July 1, 1987 through December 31, 1987, is being reduced to account for the shift added to Category 361.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the *Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated* (see *Federal Register* notice 52 FR 47745, dated December 11, 1987). Also see 52 FR 23882, published in the *Federal Register* on June 25, 1987, and 53 FR 165 and 53 FR 166, published on January 5, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,
Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 13, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 31, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Turkey and exported during the periods which began, in the case of Category 317, on July 1, 1987 and extended through December 31, 1987; and, in the case of Category 361, on January 1, 1988 and extends through June 30, 1988.

Effective on May 19, 1988, the directives of December 31, 1987 are hereby amended to adjust the restraint limit for the following categories, as provided under the terms of the current agreement between the Governments of the United States and Turkey.

Category	Adjusted 6-mo limit ¹ (July 1, 1987-Dec. 31, 1987)
317	6,450,185 square yards.

¹ The limit has not been adjusted to account for any imports exported after June 30, 1987.

Category	Adjusted 6-mo limit ¹ (Jan. 1, 1988-June 30, 1988)
361	273,904 numbers.

¹ The limit has not been adjusted to account for any imports exported after December 31, 1987.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-11147 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

May 13, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 19, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT:

Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6582. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limits for Categories 339, 341, 341-Y (sublimit), 348, 348-T (sublimit) and 350 are being increased by the addition of shift. To account for the shift added, the limits are being reduced for Categories 335, 337, 340/640, 340-Y/640-Y (sublimit), 347 and 347-T (sublimit) for the July 1, 1987 through December 31, 1987 period.

A description of the textile categories in terms of T.S.U.S.A. numbers is

available in the *Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated* (See *Federal Register* notice 52 FR 47745, dated December 11, 1987). Also see 52 FR 23882, published in the *Federal Register* on June 25, 1987 and 53 FR 165 and 53 FR 166 published on January 5, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 13, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 31, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Turkey and exported during the periods which began, in the case of Categories 335, 337, 340/640, 340-Y/640-Y, 347 and 347-T, on July 1, 1987 and extended through December 31, 1987; and, in the case of Categories 339, 341, 341-Y, 348, 348-T and 350, on January 1, 1988 and extends through June 30, 1988.

Effective on May 19, 1988, the directives on December 31, 1987 are amended to include the following adjusted limits, as provided under the provisions of the current bilateral agreement between the Governments of the United States and Turkey.

Category	Adjusted 6-mo. limit ¹ July 1, 1987-Dec. 31, 1987
335	31,349 dozen.
337	27,723 dozen.
340/640.....	214,867 dozen of which not more than 107,433 dozen shall be in Categories 340-Y/640-Y. ²
347	259,341 dozen of which not more than 116,703 dozen shall be in Category 347-T. ³

¹ The limits have not been adjusted to account for any imports exported after June 30, 1987.

² In Categories 340-Y/640-Y, only TSUSA numbers 381.0522, 381.3132, 381.3142, 381.3152, 381.5500, 381.5610, 381.5625, 381.5637, 381.5660, 381.9535, 381.9547, and 381.9550.

³ In Category 347-T, only TSUSA numbers 376.5435, 381.0005, 381.0252, 381.0254, 381.0429, 381.0540, 381.0542, 381.0546, 381.0832, 381.3509, 381.3930, 381.3940, 381.6220, 381.6230, 381.6240, 381.6250, 381.6260, 381.6270, 381.6611, 381.6924, 381.8510, 381.8634, 381.9930, and 791.7418.

Category	Adjusted 6-mo. limit ¹ January 1, 1987-June 30, 1988
339.....	261,335 dozen.
341.....	257,868 dozen of which not more than 106,704 dozen shall be in Category 341-Y. ²
348.....	330,005 dozen of which not more than 165,003 dozen shall be in Category 348-T. ³
350.....	55,606 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1987.

² In Category 341-Y, only TSUSA numbers 384.0505, 384.0511, 384.0512, 384.4608, 384.4610, 384.4612 and 384.4788.

³ In Category 348-T, only TSUSA numbers 376.5440, 384.0015, 384.0263, 384.0265, 384.0267, 384.0269, 384.0350, 384.0608, 384.0612, 384.0618, 384.0711, 384.0712, 384.0722, 384.0724, 384.0729, 384.0731, 384.0733, 384.0736, 384.0965, 384.2706, 384.2751, 384.3027, 384.3029, 384.3035, 384.3038, 384.3044, 384.3466, 384.4520, 384.4647, 384.4651, 384.4652, 384.4735, 384.4746, 384.4747, 384.4750, 384.4763, 384.4764, 384.4765, 384.4774, 384.5275, 384.5422, 384.5526, 384.7716, 384.7815, 384.9527, and 791.7420.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-11145 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DR-M

Revision In the Unit of Quantity Requirements on Export Visas

May 13, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs revising an export visa requirement.

EFFECTIVE DATE: June 1, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended [7 U.S.C. 1854].

FOR FURTHER INFORMATION CONTACT: Brian Fennessy, Commodity Industry Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION: Although the various export visa arrangements state that entry of textile and apparel products shall not be permitted into the United States if the quantity indicated on the visa is less than that of the shipment, quantities over one, but less than an additional whole unit, shall be construed to be the quantity of the closest whole number. A unit refers to pound, square yard, square foot, dozen or dozen pair.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see *Federal Register* notice 52 FR 47745, dated December 11, 1987). James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 13, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Effective on June 1, 1988, you are directed to permit entry for consumption or withdrawal from warehouse for consumption into the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) shipments of textile and apparel products covered by export visas on which the foreign government has rounded the quantity down to the nearest whole number. Quantities over one, but less than half of a whole unit, shall be construed to be the quantity of the closest whole number. Quantities of less than a single unit shall not be construed to be zero.

Examples:

Quantity in Shipment	Accept the Visa for entry purposes if the Visa reads
(a) 10 4/12 dozen (124 pcs)	10 dozen.
(b) 1,543.38 pounds.....	1,543 pounds.
(c) 4,439.33 square yards	4,439 square yards.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 88-11148 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 5, 1988.

The USAF Scientific Advisory Board Summer Study on Integrated Avionics and Hypersonic Test Facilities will meet on 11-22 July 1988, from 8:00 a.m. to 5:00 p.m., at the Naval Postgraduate School, Monterey, CA.

The purpose of this meeting will be to determine conclusions and

recommendation and to write the study report.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Office.

[FR Doc. 88-11109 Filed 5-17-88; 8:45 am]

BILLING CODE 3910-01-M

DELAWARE RIVER BASIN COMMISSION

Open Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 25, 1988 beginning at 1:30 p.m. in Room 5890 of #2 World Trade Center, New York, New York. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location and is scheduled to include a report on hydrologic conditions in the Delaware River Basin and a discussion of extension and verification of the Estuary Salinity Model for 1980-1986.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or § 3.8 of the Compact:

1. Holdover Project: Mid-Atlantic Shipping and Stevedoring, Inc. D-87-67. An application to dredge at the Salem River Cutoff in order to provide adequate depth of water for vessel access to a proposed cargo relieving facility. The applicant plans to mechanically dredge approximately 8,500 cubic yards of materials to a depth of 15 feet below mean low water. The 20,000-square foot dredged area will not extend beyond 70 feet from the shoreline. The proposed marine terminal will include a ship dock, a dock apron, a warehouse, and a truck loading and unloading facility. The project site is immediately west of the existing port in Salem City, Salem County, New Jersey. This hearing continues that of January 13, 1988.

2. Holdover Project: Delaware River Basin Commission (DRBC)—Upper Delaware Ice Jam Project D-88-22 CP. An application by DRBC on behalf of the City of Port Jervis, New York; Borough of Matamoras and Westfall Township, Pennsylvania; the State of New York; and the Commonwealth of Pennsylvania to have the U.S. Army Corps of Engineers construct an ice diversion channel on Mashipacong Island and a 39-acre mitigation site on the mainland, both in Montague Township, Sussex County, New Jersey. The purpose of the mitigation site is to mitigate the effect of clearing of wetlands that are located within the diversion channel. A 13,000-foot-long, 200-foot-wide path will be cleared of all trees larger than four inches in diameter to allow the passage of ice in the Delaware River and reduce the potential for ice jams and the resulting upstream flooding in Pennsylvania and New York. No excavation is proposed. The clearing of the path, the construction of an access road for equipment and a 5-foot-high gabion dam at the mitigation site will be the only construction activities. The project has been studied, planned and designed by the U.S. Army Corps of Engineers. This hearing continues that of April 27, 1988.

3. Pennsylvania Department of Environmental Resources (PADER)—Extension of the Schuylkill River Scenic River Designation D-82-30 CP (Revised). An application by PADER to modify sections of the Little Schuylkill River segment included in the Comprehensive Plan by DRBC Docket No. D-82-30 CP to be consistent with Pennsylvania legislation which formalized designation and classification of the Schuylkill River Extension. The reduced Little Schuylkill River designated segment will extend from Port Clinton to the Pennsylvania Highway T-848 Bridge near Rauschs in Schuylkill and Berks Counties, Pennsylvania.

4. AT&T Technology Systems D-86-81. An application to modify an industrial process wastewater treatment plant to treat concentrated acid wastes. The existing treatment plant, as described in Docket No. D-70-185, treats an average flow of 1,675 million gallons per day (mgd). The applicant proposes to process only 2,500 gallons per day of concentrated acid at the treatment plant; therefore the existing hydraulic capacity is adequate, although several new facilities are required. The proposed modification is expected to increase the effluent total dissolved solids (TDS) concentration from 1,700 million gallons (mg) to 3,500 mg on an average monthly

basis. The treatment plant is located at 2525 North 12th Street in Muhlenberg Township, Berks County, Pennsylvania approximately 1000 feet north of the City of Reading boundary. Treatment plant effluent discharges to Bernharts Creek at River Mile 92.47-78.29-1.9. Sanitary waste is discharged to the City of Reading sewer system.

5. Fleetwood Borough Authority D-87-54 CP. An application to upgrade a 0.5 mgd sewage treatment plant located off Walnuttown Road in Richmond Township, Berks County, Pennsylvania. The existing plant provides high quality secondary treatment of flow from domestic and industrial sources in Fleetwood Borough, Berks County. The proposed plant is designed to provide nitrification of ammonia. No expansion of treatment capacity or of service area is required. Treatment plant effluent will continue to be discharged to Willow Creek through the existing outfall.

6. Nazareth Borough Municipal Authority D-87-79 CP. An application to construct a 1.1 mgd sewage treatment plant to replace a 0.5 mgd facility that was constructed in 1929. The plant is located just southeast of the intersection of Van Buren and Nazareth Roads in Lower Nazareth Township, Northampton County, Pennsylvania. The proposed plant is designed to provide high quality secondary treatment of flow from Upper Nazareth, Bushkill, Lower Nazareth Township, plus Nazareth Borough, all within Northampton County. The proposed facility is designed to serve an equivalent population of 14,785 persons through the year 2008. Treatment plant effluent will continue to be discharged to Shoeneck Creek, but a new outfall will be constructed just north of the existing line.

7. Doylestown Township Municipal Authority D-88-18 CP. An application for approval of a ground water withdrawal project to supply up to 2.94 mg/30 days of water from new Well Nos. LS-1 and LS-2. The project is located approximately 400 feet northeast of the intersection of Old Dublin Pike and Pine Run Road in Doylestown Township, Bucks County, Pennsylvania and is in the Southeastern Pennsylvania Ground Water Protected Area.

8. Tamiment Resort-Wesland Development, Inc. D-88-20 CP. An application for approval of a ground water withdrawal project to supply up to 5.5 mg/30 days of water to the applicant's resort complex from existing Well Nos. 1 and 2. The project is located in Lehman Township, Pike County, Pennsylvania.

9. Texaco Refining and Marketing, Inc. D-88-25. An application for approval of a ground water withdrawal of up to 6.48 mg/30 days of water from existing Well Nos. C-6, C-7 and C-29 as part of the applicant's ground water decontamination project. The project is located in New Castle County, Delaware.

10. Rollins Environmental Services, Inc. D-88-26. An application to modify an industrial waste treatment plant that serves the applicant's hazardous waste processing facility in Logan Township, Gloucester County, New Jersey. The project is designed to improve treatment efficiency at the plant by providing a new clarifier and a chemical precipitation/microfiltration unit. The treatment plant is designed to remove over 90% of the total suspended solids from an incinerator scrubber wastewater flow of 1.12 mgd. The proposed modifications represent an upgrade and no expansion of treatment capacity is required. Treatment plant effluent will continue to be discharged to Raccoon Creek through the existing outfall located in Water Quality Zone 4.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,
Secretary.

May 10, 1988.

[FR Doc. 88-11059 Filed 5-17-88; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

[CFDA # 84.117P]

Inviting Applications for New Awards Under the Research and Development Centers Program for FY 1988

Purpose: To provide additional awards to funded research and development centers to support special activities related to the improvement of education. Only existing Research and Development Centers under 34 CFR Parts 706 and 708 are eligible for an award under this competition.

Deadline for Transmittal of Applications: July 5, 1988.

Applications Available: May 19, 1988.

Available Funds: \$220,000.

Estimated Average Size of Award:

\$75,000 to \$220,000.

Estimated Number of Awards: 1-3

Project Period: One year.

Applicable Regulations: (a) The regulations for the Regional Educational Laboratories and Research and Development Centers Programs as proposed to be codified in 34 CFR Parts 706 and 708. Applications will be accepted based on the notice of proposed rulemaking published in the **Federal Register** on March 22, 1988 (53 FR 9408). If any substantive changes are made in the final regulations for these programs, applicants will be given an opportunity to revise or resubmit their applications. (b) the Notice of Proposed Biennial Research Priorities published in the **Federal Register** on November 20, 1987 (52 FR 44625). Applications will be accepted based on the Notice of Proposed Biennial Research Priorities. If any substantive changes affecting the priority chosen for this competition are made in the final biennial research priorities, other than the change described in the absolute priority section of this notice, applicants will be given an opportunity to revise or resubmit their applications. (c) the Education Department General Administrative Regulations, 35 CFR Parts 74, 75, 77, and 78.

Priorities: The Secretary has chosen from the notice of proposed biennial research priorities published in the **Federal Register** on November 20, 1987 (52 FR 44625) the following as an absolute priority: Improvement in education. This priority includes assessing the implementation and impact of school reform initiatives, with particular emphasis on the refinement of measures of effective school, teaching, and classroom practices. The Secretary expects that the final priority will also include emphasis on the refinement of measures of counseling practices, and thus applicants may address this aspect of the priority in their applications. If any further substantive changes are made in the final priority, applicants will be given an opportunity to revise or resubmit their applications.

Weighting for Selection Criteria: The proposed program regulations at 34 CFR 706.20(e) authorize the Secretary to distribute an additional 10 points among the criteria described in 34 CFR 708.12 to bring the total of possible points to a maximum of 100 points. The Secretary will distribute the reserved 10 points as follows: Five (5) additional points to the criterion at 708.12(c) (Plan of operation), bringing the total for this criterion to 25 points; and five (5) additional points to the criterion at 708.12(d) (Technical soundness), bringing the total for this criterion to 30 points.

For applications or information contact: Dr. Martin Orland, OERI, Office

of Research, Room 627K, 555 New Jersey Avenue NW., Washington, DC 20208-1430, (202) 357-6214.

Program Authority: 20 U.S.C. 1221e.

Dated: May 13, 1988.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 88-11096 Filed 5-17-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/SW(EU)-144, for the transfer of 400 barrels of unirradiated scrap, containing 20 kilograms of uranium, enriched to approximately 3 percent in the isotope uranium-235, for incineration. The material is then planned to be returned to either the Federal Republic of Germany, or to the United States.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 13, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88-11168 Filed 5-17-88; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

Coal Policy Committee; National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council.

Date and time: Wednesday, June 8, 1988, 1:30 pm.

Place: Madison Hotel, 15th & M Streets, NW., Washington, DC 20005.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-4695.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting: Discuss studies currently being conducted by the Council.

Tentative Agenda:

- Call to order by Irving Leibson, Chairman.
- Discuss studies currently being conducted by the National Coal Council.
- Discuss draft report on the "Economic Impact of Substituting U.S. Coal for Imported Energy."
- Discuss any other business properly brought before the Committee.
- Public comment—10-minute rule.
- Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m.

and 4:00 p.m., Monday through Friday, except Federal holidays.

Howard H. Raiken,

Advisory Committee, Management Officer.

[FR Doc. 88-11164 Filed 5-17-88; 8:45 am]

BILLING CODE 6450-01-M

and 4:00 p.m., Monday through Friday, except Federal holidays.

Howard H. Raiken,

Advisory Committee, Management Officer.

[FR Doc. 88-11165 Filed 5-17-88; 8:45 am]

BILLING CODE 6450-01-M

National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and time: Thursday, June 9, 1988, 9:30 a.m.

Place: Madison Hotel, 15th & M Streets, N.W., Washington, D.C. 20005.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, D.C. 20585. Telephone: 202/586-4695.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal industry issues.

Tentative Agenda:

- Call to order by James G. Randolph, Chairman.
- Remarks by Chairman Randolph.
- Remarks by Department of Energy official.
- Guest speakers.
- Report of the Coal Policy Committee.
- Consideration of administrative matters.
- Discussion of any other business properly brought before the Council.
- Public comment—10-minute rule.
- Adjournment.

Public Participation: The meeting is open to the public. The chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 a.m.

National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Petroleum Council.

Date and Time: June 8, 1988, 9 a.m.

Place: The Westin Hotel, Ballroom II, 2401 M Street, NW., Washington, DC.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585. Telephone: 202/586-4695.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

Tentative Agenda:

- Call to order by Edwin L. Cox, Chairman, National Petroleum Council.
- Remarks by the Honorable John S. Herrington, Secretary of Energy.
- Report of the NPC Committee on Establishing a Petroleum Research Institute.
- Report of the NPC Committee on Petroleum Storage and Transportation.
- Guest Speakers.
- Consideration of Administrative matters.
- Discussion of any other business properly brought before the National Petroleum Council.
- Public comment (10-minute rule).
- Adjournment.

Public Participation: The meeting is open to the public. The chairperson of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal

Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 88-11166 Filed 5-17-88; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Record of Decision for the California-Oregon Transmission Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), has made the decision to participate in the construction, operation, and maintenance of the California-Oregon Transmission Project (COTP).

Western's decision is based on the information contained in the draft, supplement to the draft, and final environmental impact statements (EIS) that were issued for the project (DOE/EIS-0128). The decision is also based on the information contained in Bonneville Power Administration's (BPA) Intertie Development and Use (IDU) final EIS.

With two exceptions, the COTP would be constructed along the environmentally preferred route as described in the final EIS and presented briefly below.

Western plans to construct facilities for the upgrading of two existing 230-kilovolt (kV) transmission lines to a single 500-kV transmission line between the Olinda Substation and the Sacramento River Delta area, construct approximately 20 miles of new 500-kV transmission line between the Sacramento River Delta area and the Tracy Substation, and construct the associated substation facilities near Olinda, Maxwell, and Tracy, California. Other facilities for the COTP will be constructed by the Transmission Agency of Northern California (TANC) and by BPA.

Western has adopted the mitigation measures for the COTP that are listed in the final EIS and has committed to adopt a mitigation compliance and monitoring plan that will ensure that the measures are integrated into the proposal. In addition, any unforeseen site-specific mitigation requirements identified during the construction phase will be addressed by Western and coordinated with the appropriate Federal, State, and local agencies.

While Western is not planning to participate in the financing, construction, operation, or maintenance of the Los Banos-Gates and Pacific Northwest (PNW) Reinforcement Project and has no decision making authority with regard to these projects, the three projects were considered in one EIS because of the interrelationships among them. Decisions on these projects will be made by the California Public Utilities Commission (CPUC) and BPA, respectively.

FOR FURTHER INFORMATION CONTACT:

Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 500, Sacramento, CA 95825, (916) 978-4418.

SUPPLEMENTARY INFORMATION: Title III of the Energy and Water Development Appropriations Act for Fiscal Year 1985 (Pub. L. 98-360) authorized the Secretary of Energy, through Western, to "construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California." The proposal was developed by a group of California public and private utilities and Western through a Memorandum of Understanding (MOU) that provides the framework for development of the projects.

The purposes of the proposed actions are to expand the bidirectional capability of the Pacific Northwest-Pacific Southwest Intertie transmission system and to help serve California's need for economical power, the Pacific Northwest's desire to sell surplus power, and the need for maintaining and increasing the reliability of the existing transmission system. The COTP will add approximately 1,600 megawatts (MW) of additional transfer capability between the Pacific Northwest and California. The COTP, Los Banos-Gates Transmission Project, and PNW Reinforcement Project would add to and strengthen the existing high voltage transmission links between California and the Pacific Northwest. These projects would provide for greater access to Northwest power surpluses, facilitate more efficient use of power resources, provide greater resource diversity, and enhance transmission system reliability.

One provision of the COTP MOU is that Pacific Gas and Electric Company (PG&E) provide power transfers between the existing Tesla Substation and southern California for certain participants. Earlier PG&E studies of both the existing and future

transmission needs between the Tesla Substation and southern California indicated that a new 500-kV line and supporting facilities would be the most appropriate and economical means for PG&E to meet the contractual obligations of the COTP MOU. These facilities became known as the Los Banos-Gates Transmission Project. PG&E has since studied the Los Banos-Gates power flow requirements and believes it can meet its commitments under the MOU to provide firm bidirectional transmission without constructing the Los Banos-Gates Project at this time.

The PNW Reinforcement Project is a proposal by BPA, Pacific Power and Light Company, and Portland General Electric Company to construct new and modify existing transmission lines and supporting facilities in southern Washington and Oregon. This project was identified as a result of studies of future transmission needs associated with increased power flows on the Intertie system.

Although the three projects have different sets of sponsors, all are related to the exchange of approximately 1,600 MW of additional power between the two regions. Because of this interrelationship, the three projects were considered together in one EIS to promote an assessment of the cumulative impacts and a coordinated process. In addition, the EIS was jointly prepared with TANC as an environmental impact report (EIR). The EIR was used by TANC to fulfill its requirements under the California Environmental Quality Act.

Western's participation is necessary because the COTP, as proposed, involves the upgrading of approximately 170 miles of Western's Shasta-Tracy/Cottonwood-Tracy Transmission Line from two 230-kV circuits to a single 500-kV circuit. As compensation for the use of the Federal facilities, the Federal government will receive 6.25 percent, or 100 MW, of capacity in the proposed project to serve Federal agencies, including the DOE laboratories and fish and wildlife refuges. This capacity will be in addition to Western's existing capacity on the two 230-kV lines that would be replaced. Western's purposes and needs for participating in the COTP are to provide access to economical Northwest power for the Federal agencies, to obtain greater reliability for its entitlement on the existing Pacific Alternating Current (AC) Intertie lines and the interconnected transmission grid as a whole and to promote efficient use of power resources.

The COTP, Los Banos-Gates Project, and PNW Reinforcement Project include constructing new and modifying existing 500-kV and 230-kV AC transmission facilities in northern and central California, Oregon, and in southern Washington. The proposed actions for the COTP are summarized below.

Description of the Proposed Action

1. Facilities

The proposal is to construct and operate approximately 340 miles of transmission lines, three substations, a series compensation station, communication facilities, and to modify two existing substations. Specifically, the proposed actions are:

Construct a new substation at site E3 near the California-Oregon border along the existing Malin-Meridian 500-kV AC Transmission Line to serve as the northern terminus for the COTP and interconnection point with the Pacific Northwest transmission system. Presently, it is planned that this substation will be constructed by BPA.

Construct a new 500-kV AC transmission line (approximately 146 miles long) from the California-Oregon border area substation to the proposed Olinda Substation near Redding, California.

Construct the Olinda Substation at site GP4 south of Redding near the interconnection of Gas Point Road and Happy Valley Road and relocate approximately 1 mile of existing 230-kV transmission line right-of-way (ROW).

Upgrade an existing double-circuit 230-kV AC line (approximately 170 miles long) owned by Western, to a single-circuit 500-kV AC line from the proposed Olinda Substation to the Sacramento River Delta area.

Construct the Maxwell Series Compensation Station at site SC3 near the town of Maxwell, California.

Construct approximately 20 miles of new 500-kV AC transmission line from the Sacramento River Delta area to the existing Tracy Substation.

Construct a new 500-kV AC double-circuit link (approximately 6 miles long) between the Tracy Substation and the area of the Tesla Substation. This line will be connected to the existing Tesla-Los Banos Number 2 500-kV line, creating the Tracy-Tesla and Tracy-Los Banos 500-kV Transmission Lines.

Expand the Tracy Substation to include a 500-kV substation and replace six 230-kV circuit breakers in the existing Tracy Substation. Approximately 1 mile of existing 230-kV transmission lines will be rerouted to make room for the new substation.

Modify the Tesla Substation to replace two 230-kV circuit breakers, relaying, and other equipment.

Modify existing and construct new microwave communication system facilities in central and northern California and southern Oregon.

Modify the existing Cottonwood Substation to replace three 230-kV circuit breakers.

The transmission lines for the COTP will be supported on steel structures that will be designed and constructed to meet State and national standards. Several types of structures will be used depending on the line configurations, engineering factors, and mitigation needs. These types include single-circuit lattice, double-circuit lattice, single-circuit tubular, single pole and H-frame, double-circuit tubular, and upgrade towers. On the upgraded single-circuit lattice towers, steel support members will be added to the main body of the existing 230-kV double-circuit lattice towers, and the top will be rebuilt to support the new 500-kV AC conductors and provide adequate electrical clearances. Structures will typically be 125-180 feet tall.

2. Proposed Route

North D of the four northern alternatives discussed in the draft EIS and South B of the three southern alternatives, represented both the environmentally preferred and project preferred alternatives. Route segments discussed in the supplement to the draft EIS were options within alternatives North D and South B. The environmentally preferred and project preferred route between Olinda Substation and Tracy Substation is the upgrade of Western's existing double-circuit 230-kV AC line to 500-kV AC. The selected route segments, traveling from the Oregon Border to Tracy Substation are:

Southern Oregon switching station site E3, North 1, N-10G, N-10J, N-10K, N-10L, N-10M1, N-10M2(A1), N-10M2(A), North 2B, N-10Alt5(B), N-10Alt5(D), N-10Alt5(C), N-7Alt1(A), N-7Alt1(B), North 3J, N-8A(3), N-8C, North 4, N-8Alt2(A), N-9A, N-9C, N-9D, N-9G, N-9J, N-9N, N-9Q, N-13A, Olinda Substation site GP4, S-1A, Maxwell Series Compensation Station Site SC3, S-8B, S-8C, S-8Alt1, S-8E1(A), South 1, S-8Alt3, S-8K, Tracy Substation site T1, S-9D, S-9G, South 2.

Alternative D in the northern section was selected as the environmentally preferred alternative primarily because it minimizes impacts to timberlands, emphasizes route segments on public lands where resource impacts are similar, and minimizes impacts to earth, water and vegetation resources, and

critical wildlife species and their habitats. Alternative D was selected as the project preferred route because it satisfies transmission system reliability requirements provided that a fuels management plan and fire response plan is developed in conjunction with the U.S. Forest Service (USFS) and implemented for the area between the existing Intertie and the preferred route. The USFS indicated that the area east of the North 3J corridor has a feasible route location that will minimize resource impacts while meeting geologic concerns. Should a superior location be found near North 3J during final design, the lead agencies will work with the USFS to identify, review, and approve the new location.

The Western upgrade is environmentally preferable to any alternative route between Olinda and the Sacramento River because any alternative involving construction of a new line in a new ROW would cause more environmental impacts than the upgrade. This route was selected as the project preferred due to environmental, economic, and engineering considerations, as explained in the EIS.

Alternative B in the southern section was identified as the environmentally preferred alternative because it minimizes impacts to developed and planned land uses. Alternative B was selected as the project preferred route because environmental impacts are minimized while separation from the existing Intertie is maximized to the extent practical.

Comments received on the draft EIS led to the identification of new routing options for portions of the preferred route for the COTP, which were considered in a supplement to the draft EIS issued in July 1987. The major concerns expressed in the comments included concerns about visual impacts on property and the possibility of resultant impacts to property values; concerns about impacts to agricultural crops and agricultural practices, such as aerial application of chemicals and irrigation systems; concern for collision of waterfowl and raptors with the transmission lines; recommendation that public lands rather than private land be used whenever possible; concern for effects on prime timberlands; doubt of the need for separation of the proposed project from the existing Intertie lines; concern for the economics of the project; concern over recent scientific literature indicating possible correlations between electromagnetic fields and human health; and the need for more specificity in the mitigation measures. The route option comparisons are discussed in detail in section 1.2.2 of the final EIS.

The following changes to the routing were made:

A new site (E3) for the southern Oregon substation would have fewer impacts on agricultural lands and is less visible from the town of Malin, Oregon.

Alternative route North 1 is a 9.7-mile route option located to the east of the original project preferred route. The North 1 route option avoids a private airstrip and avoids more agricultural land.

Route segment N-10M2(A1) avoids an area managed by the USFS for old-growth habitat and a tree plantation.

Route N-10M reduces impacts to prime timberland when compared to the original preferred route. The original preferred route (N-10Alt5) offered greater transmission system reliability due to lower probability of fires and other common-mode types of outages because it provided greater separation from the existing Intertie. The USFS has strongly maintained that reliance on centerline separation without consideration for fire suppression activities would not significantly reduce forest fire-caused outages. The USFS has stated that it will help develop a fuels management and fire response plan for the COTP. N-10M was reconsidered as a feasible alternative based on the commitment from the USFS.

Route North 2B would require less extensive access road construction and represents additional separation from the existing Intertie. It is the preferred route for reasons of increased system reliability.

The North 3J option reduces impacts to USFS timber sale areas and spotted owl management areas. The USFS indicated that the area east of the North 3J corridor (east of Little Meadows) has a feasible route location that will minimize resource impacts while meeting geologic concerns. Should a better location be found near North 3J during the final design, Western will work with the USFS to identify, review, and approve the location.

The North 4 route avoids a small residential community, is further from the Roaring Creek Rancheria, and reduces visual impacts.

The South 1 routing option was identified in response to concerns of landowners along the original preferred route. The new route reduces the severance of parcels and avoids development along Sand Mound Slough. The southern section of this route also avoids crossing Woodward Island, where access for construction and maintenance would be difficult.

Selection of South 1 resulted in the identification of a new segment, S-8Alt3. This segment is preferred to segment S-8J, which it replaces, because it is shorter and minimizes impacts to agricultural uses.

The South 2 route is preferred to the original preferred route because it takes advantage of more compatible land uses and avoids an elevated road crossing of the Interstate Highways 580/205 interchange. This route takes advantage of two existing public ROW's for part of its length.

The environmentally preferred alternatives were selected as the project preferred route with the exception of one area in the Tulelake basin and one area near Bear Mountain. In the Tulelake basin, the environmentally preferred route (N-10 Alt.4) was found to have prohibitively high costs compared to slight environmental benefits and was judged to be infeasible from an economic perspective. In the Bear Mountain area, it was found that a more extensive access road system and construction efforts on North 2C made the comparison with North 2B so close that one is not clearly environmentally better than the other. In this and other areas, environmental impacts along the selected route can be reduced through implementation of mitigation measures. These are noted in table 1.1.2-1 in the final EIS.

The following routes were considered but were not selected as part of the project proposal. An analysis of their impacts and more detailed reasons for their rejection are found in section 1.2.2 of the final EIS.

The John Cross Alternative and variations of it were rejected because they either would greatly decrease system reliability, were not economical, or both.

The California Department of Fish and Game proposal was rejected because of engineering concerns and because there were no potentially significant impacts to bald eagles identified along the selected route with the implementation of mitigation.

The underground crossing of the Intertie was rejected based on concerns for reliability of the transmission system.

Locating east of the existing Interties into Nevada was rejected based on economic considerations and because it would not meet the purpose of the proposed project.

Locating along the PG&E pipeline was rejected because of concerns with reliability since crossing of the existing Interties would be required.

The Rio Vista to Tracy alternative was rejected because of concerns with

lack of access for construction, waterfowl habitat, and increased costs due to increased length and special foundation requirements.

Locations west of the upgraded portion were rejected based on increased environmental impacts and increased costs.

Interstate Highway 5 to Tracy was eliminated due to increased environmental impacts and higher costs.

The Modoc National Forest Intertie relocation suggestion was rejected since it is an extreme and costly measure in light of the timber impacts to the Modoc National Forest.

The Hearst alternative and Forest Service segments in the Grizzly Peak area were rejected because portions of these suggestions involve steep, unstable slopes that are susceptible to landslides and surface erosion in the Devil's Canyon area.

The new Antioch route was rejected based on engineering considerations and because the location would have required crossing the Intertie lines—a situation that is unacceptable from a systems reliability viewpoint.

The Henwood proposal was eliminated due to concerns with system reliability and project cost.

The Beebe proposal was rejected based on increased environmental impacts.

3. Right-of-Way Acquisition

Contracts for ROW's or additional easements will be negotiated with the individual landowners. Between the proposed Olinda Substation and the Sacramento River Delta area, Western has an approximately 125-foot wide easement for its existing double-circuit 230-kV transmission line. Because the proposal involves installing a 500-kV line in an easement designed for a double-circuit 230-kV line, additional rights for construction of a 500-kV line will have to be acquired, but no additional ROW width will be needed with the exception of some areas of minor relocations of structures. In those parts of the proposed project where a new transmission line will be constructed (i.e., between the southern Oregon substation and the Olinda Substation, and from the Sacramento River Delta area to the Tracy Substation) new ROW's will be needed. Easement rights for access road ROW's will be acquired over certain existing roads and trails to assure continuity of access to the transmission line.

4. Construction Practices

During the construction of the transmission line and supporting facilities there are several phases of

work including, but not limited to, surveying, clearing, construction of access roads, foundation installation, allocation of materials along the construction route, structure modification, conductor stringing, conductor pulling site restoration, and final clean-up. Figure 2.1-4 of the draft EIS shows the installation of the transmission line conductors. Volume 3A, appendix A discusses the operations in greater detail.

5. Operation and Maintenance Practices

The proposed line will be energized and operated at a nominal voltage of 525-kV, plus or minus 5 percent. Changes in power flow will cause minor fluctuations in the actual operating voltage. System dispatchers in power control centers will direct the day-to-day line scheduling and equipment operation by supervisory control to operate, maintain, and protect the system. Circuit breakers will operate automatically in an emergency to ensure the safety of the system.

Land use activities within the transmission line ROW will be permitted within the terms of the easement. Farming and grazing are generally encouraged within the ROW if appropriate precautions are observed. Incompatible activities not permitted within the ROW include constructing buildings, drilling wells, and other activities that compromise safety or hinder Western's maintenance activities.

Various techniques will be used within the ROW to control or eliminate vegetation that could interfere with reliable service. The ROW will not be clear-cut; as much vegetation will be left as possible. Techniques include hand and mechanical cutting as well as selective application of approved herbicides. The management objective, type of vegetation present, adjacent land use and development, and impacts of the control technique will be considered in selecting the most appropriate method to use at each facility and along each ROW segment. Herbicides will not be used on Federally-owned lands, consistent with current Federal court restrictions, but may be used on other lands in cooperation with the landowners.

A maintenance program will be established to ensure continued reliable service of the transmission system. The proposed transmission line structures, access roads, and ROW's will be inspected on foot, in vehicles, or air craft one to six times per year. Emergency repairs will be made if the transmission line is damaged and

requires immediate attention. Maintenance crews of generally less than ten persons would use a variety of equipment to effect repairs, including hand tools, trucks, aerial lift trucks, cranes, and other equipment.

6. Mitigation

All practicable means to avoid or minimize environmental harm from the selected alternative have been adopted. The mitigation measures that have been adopted are listed in section 1.1.5 of the final EIS. These measures will be incorporated into the proposed action through a Compliance Monitoring Plan that is being developed by the project in cooperation with the landowners and managers. Western is committed to adopt the provisions of the plan. The plan will be prepared during project design to include engineering designs and construction plans. It will be developed through additional consultation with state and Federal agencies that will be involved in monitoring its implementation.

Implementation of the Compliance Monitoring Plan will be assured through several measures. First, the lead agencies will ensure that the applicable mitigation measures are included in the construction contracts. The construction inspectors will verify that the mitigation measures are implemented and will have the authority to enforce the measures by redirecting activities of the construction contractor to the extent necessary to meet the mitigation requirements included in the construction specifications. Second, both Western and TANC, as lead agencies under the National Environmental Policy Act of 1969 (NEPA) and the California Environmental Quality Act will monitor the implementation of the mitigation measures. Third, cooperating and responsible agencies and other local, State, and Federal agencies may also monitor the implementation of the mitigation measures under their jurisdiction. Details of the coordination and reporting mechanisms for this monitoring will be included in the Compliance Monitoring Plan.

Alternatives Considered but not Selected

1. No Action

Selection of the no-action alternative would mean that the COTP, Los Banos-Gates, and PNW Reinforcement Project would not be constructed. Consideration of the no-action alternative was not limited to assessment of the consequences of foregoing the three projects. If the projects are not built and

if the utilities presently participating in them do not act in concert to construct an alternative 1,600 MW resource, these utilities may meet their power requirements through independent development of other resource alternatives. Selection of the no-action alternative could lead to a number of individual actions by the many different participating utilities to obtain power from other resources. It is also noted that the plans used in the economic analysis without the three projects, already included all of the anticipated energy and capacity planned to be available from Qualifying Facilities.

At present, California utilities in the aggregate have substantial amounts of excess generation capacity, primarily in the form of older and less efficient oil and gas-fired units. Due to construction lead times as well as regulatory factors, it is assumed that if the projects were not constructed, California load growth over the short term would likely be accommodated by more extensive use of such units (i.e., more extensive use than would be justified on economic grounds if the projects were in place). In the short term, publicly owned utilities may be expected to increase power purchases from their investor-owned utility (IOU) wholesale power suppliers until planning, permitting, and construction of the alternative resources can be completed. The IOU's, in the short term, would likely burn more oil and gas both to meet their own load growth and to meet the increased wholesale power sales requirements of the publicly-owned utilities. Increased reliance on the use of inefficient oil and gas burning units would result in higher costs to California ratepayers and could result in impacts to air quality.

In the longer term, other alternatives that might be independently or collectively pursued would include development of pumped-storage hydroelectric projects, thermal plants, the installation of combustion turbines, construction of other transmission alternatives, and joint participation with other utilities in the development of out-of-state coal projects. Comparisons of these transmission and generation alternatives is included in Volume 1, sections 2.5.1.1 and 2.5.2.1 of the draft EIS for the COTP.

For both the publicly owned utilities and the IOU's, a principal advantage of constructing the proposed projects, that would be foregone with selection of the no action alternative, is the opportunity for exchanges with the Pacific Northwest to capitalize on seasonal diversity between the two regions. Because California's load peaks in the

summer, and the Northwest loads are sharply winter-peaking, there are significant opportunities for the two regions to share in the economic advantages of seasonal exchanges. Additionally, since the projects would be constructed on an ROW separated from that of the existing Intertie, the reliability of power supply from the Northwest would be significantly increased.

Construction of the projects is expected to significantly enhance the reliability of the Western Systems Coordinating Council (WSCC) area transmission systems. The prospects for outages and the resulting impacts will continue if the projects are not constructed. Further, the transfer capability of the existing Intertie presently constrains the amount of Northwest energy that can be absorbed in California during daily peak periods. The construction of the proposed projects would alleviate such constraints and provide added benefits from the use of Northwest energy delivered during the California utilities' onpeak period. Any alternative project should provide these types of opportunities by providing generation or connection to generation resources.

The publicly-owned utility participants in particular would need alternative peaking resources, both as reserves for existing thermal units and as backup resources for existing hydro projects during adverse water years. It is most likely that such needs would be met in the short term with combustion turbines if the proposed projects were not constructed. The estimated extent of the use of combustion turbines as part of a complete utility resource plan with and without the proposed projects is presented in Volume 1, section 2.5.2.1 of the draft EIS. It is also conceivable that in the absence of the proposed project, increased loads would occasion diminished service reliability and increase reliance on high cost emergency actions.

The most likely long-term alternative resource for meeting California's baseload requirements in the absence of the proposed projects would be the development of out-of-state coal resources. This alternative, however, raises considerable uncertainty regarding the ability to obtain regulatory approvals, including those needed for construction of the transmission facilities needed to transmit power from out-of-state to California load centers. The use of out-of-state coal capacity as part of an overall utility resource plan with and without the proposed projects

is discussed in Volume 1, section 2.5.2.1 of the draft EIS.

None of the alternatives that the individual utilities would rely on if the no-action alternative were selected, would have the economic advantages of regional exchanges with the Northwest. Further, none of the power supply alternatives identified are economically superior to the proposed projects. In the absence of the proposed projects, increased reliance on burning fossil fuels may produce significant negative impacts on air quality. Additionally, the oil embargo of 1973 has shown that world oil prices and supplies are strongly influenced by actions of a relatively few oil-exporting countries who have the ability to sharply reduce oil supplies and increase prices. Consequently, the more extensive use of oil and gas may subject California ratepayers to significant uncertainties regarding future supplies and prices of these fuels.

The no-action alternative would have fewer environmental impacts than the proposal in the short term. By not constructing the proposed projects, the short-term impacts would be associated primarily with air quality since there would be increased reliance on burning fossil fuels for power generation. There would be no direct impacts to other resources such as vegetation, wildlife, visual, or archaeological since no new construction would be expected in the short term. In the longer term, however, selecting the no-action alternative would mean that the participating utilities would undertake other transmission construction projects or would participate in the construction of other generation resources that would each have environmental impacts.

2. Transmission Alternatives

Two transmission projects were quantitatively considered as potential alternatives to the proposed action. One is a proposal to upgrade the existing 500-kV Pacific AC transmission Intertie lines between California and the Pacific Northwest. The second would replace the COTP with a second DC line and possibly eliminate the need for some of the capacity of the Los Banos-Gates Project. Both are based on the concept of adding transmission capability to allow additional northwest power purchases.

AC Transmission

An alternative to constructing the 146 miles of new line in the northern section of the Project is to upgrade the two existing 500-kV Pacific AC Intertie lines to provide two 2,400 MW AC lines, an increase of 800 MW on each line. This

alternative was determined to be infeasible based on economic, physical, and reliability problems. Such a line could, in theory, provide a potential increment of 1,800 MW of Intertie transmission capability equivalent to the capability of the proposed COTP. This transmission capability would increase access to load-following generation resources as well as baseload resources.

Increasing the existing two-line capability by 1,600 MW without providing a separate corridor would further aggravate the system reliability problem in the WSCC area. If each of the existing Intertie lines is increased from the present 1,600 to 2,400 MW of capability, an outage of one line would result in the loss of 2,400 MW of transmission capability as compared to the loss of 1,600 MW of capability in the event of an outage of one line of the existing system. Concentrating this much power in two adjacent transmission lines would not meet the WSCC's reliability criteria. As a result, the added transmission capability would not provide the same transfer rating capability as the COTP. The transfer capability would also be reduced when power flows across other pathways of the WSCC's system (i.e., from Arizona to California or from Colorado/Utah to Arizona/New Mexico) are above certain levels.

Aside from the reliability issue, the cost of upgrading the existing lines would be substantially higher than the cost of the COTP. Additional costs would be accrued due to required changes in tower configuration, conductor sizes and other hardware changes, substation modifications, lost revenues due to interruptions of power transactions during construction, replacement of lost power by use of gas-fired generation, and the need for additional ROW's.

Direct Current (DC) Transmission

Several DC transmission concepts have been considered that would increase the transmission capability between the Pacific Northwest and California. Each of these would increase access to load-following as well as baseload generation resources. Economic studies indicated that each of these alternatives would be less feasible than the COTP. A DC line connecting essentially the same Oregon and California points as the COTP was qualitatively analyzed, and a second DC line from Oregon through Nevada to the Southwest and Southern California was quantitatively analyzed along with a trans-Sierra line connecting northern California to the second DC line.

A DC line is well-suited to the transmission of bulk power over long distances between two points. One major concern over the DC option is the cost of each converter station that would be needed to change DC to AC. This expense is a factor that limits the ability to interconnect such a line with the required multiple points of delivery for the COTP and was a major cause for rejection of this option. A 500-kV AC line can readily accommodate the multiple interconnection points. For this reason, in addition to substantially higher costs of the DC option, lack of operating experience in multiple tap DC commercial systems, and lack of any environmental advantages, the option of a DC line from Oregon through California was eliminated.

A second DC line routed through Nevada and interconnecting the Pacific Northwest with southern California, similar to the existing DC Intertie, was also considered and compared to the proposed actions.

The second DC line alone would not meet the objectives of the COTP for all of the participating utilities. The COTP was compared to the second DC line in two manners: (1) The prorata share of the COTP for the southern California participants was compared to an equivalent capability of the second DC line; and (2) the COTP costs were compared to the estimated costs for a combined second DC line and Trans-Sierra crosstie that would serve the central and northern California participants.

The proportionate cost of a second DC line that would be borne by the California utilities under either option is greater than their costs of the COTP. On a capital cost basis alone, the second DC line offers fewer economic benefits than the COTP. A second DC line would have environmental impacts comparable to those discussed for the proposed action.

3. Parallel Existing Intertie Lines

The COTP represents a major addition to the bulk transmission system of California as well as to the western North American transmission systems that link 14 States, the Canadian provinces of British Columbia and Alberta, and Baja California Norte, Mexico, which form the WSCC. Since the proposed projects would be a major integrated portion of the system in the WSCC area, system reliability is one of the important criteria for guiding the selection of the configuration. Routing of the proposed lines must be done to avoid a situation in which an outage of three 500-kV AC lines could be a

credible event. Constructing the third 500-kV AC line close to the two existing lines or terminating the line at the same substation (such as at the Malin or Round Mountain substations) would degrade the reliability of the interconnected transmission system because it would increase the potential for a single event-induced failure that would result in the loss of all three 500-kV lines. Insufficient system reliability might require derating of the proposed line by the participating utilities in order to meet WSCC standards. All utilities that construct new projects are responsible for planning and constructing facilities that do not jeopardize system reliability. Reliability was the major issue that determined the infeasibility of this alternative.

Project studies indicate that placing the new line on the eastern side of the existing Pacific AC Intertie lines would require that the COTP line cross over the existing lines twice north of the Olinda Substation. Simultaneous unexpected outages of the COTP line and one of the existing Malin-Round Mountain 500-kV lines could lead to overloading of the other existing Malin-Round Mountain line. Eight possible solutions to the overload problem were considered, but none were found to be acceptable due to either economics or increased dependency on new and more complex remedial action schemes for the WSCC interconnected systems.

To ensure that the required level of regional system reliability is met, special precaution has been taken to provide adequate distance between the route proposed for the COTP line in the eastern corridor and the existing lines. Construction of a new Intertie route so that a three-line outage is not credible was a major consideration for corridor selection.

4. Underground Construction

The primary factors that were considered in comparing underground and above ground transmission were the relative costs of construction and maintenance, and the environmental impacts. Prohibitive cost and lack of proven technology for the size of the proposed transmission line were the major factors that resulted in rejection of underground construction.

Nontransmission Alternatives

If a new transmission link from California to the Pacific Northwest was not built, increased energy exchanges due to seasonal diversity would not occur. Resources would then be required to provide the capacity and energy needed in each region. The nontransmission alternatives that were

considered in order for the California utilities to meet the amount and type of utility system needs that would be provided by the proposed action are discussed in detail in section 2.5.2 of the draft EIS, as are the reasons why each would not meet the project purpose and need and were, therefore, rejected. The nontransmission alternatives considered but rejected are: generation alternatives including combustion turbine generation, combined cycle generation, out-of-state coal generation, increased Southwest purchases (economy energy), cogeneration and small power production projects, refurbishments and life extensions for existing generation facilities, pumped-storage hydroelectric capacity for peaking, and conservation and load management.

Integration With Other Requirements

1. Floodplains/Wetlands Statement of Findings

Appendix E (section 1.1.5) of the final EIS contains detailed information on the locations of crossings of wetlands and floodplains by the proposed action. The potential for avoiding most of these during final siting and construction of the facilities is high and is the preferred method of mitigating potential impacts. A floodplains/wetlands assessment is contained in section 6.1.1 of the draft EIS and additional information is provided on page 1.1.6-2 of the final EIS. Construction of the new line between the Sacramento River and the Tracy Substation will require construction activities in the floodplains of the Sacramento and San Joaquin River Deltas. Avoidance of construction in these floodplains is not practicable. Alternatives to locating the facilities were analyzed during the environmental studies. These alternatives are discussed in the draft, supplement to the draft, and final EIS. The proposed facilities will conform to all applicable State or local floodplain protection standards. Mitigation measures adopted that would reduce impacts to floodplains and wetlands are presented in sections 1.1.5 and 1.1.6 of the final EIS.

2. Other Requirements

A detailed discussion of integration of requirements for cultural resource protection, endangered species protection, and other local, State, and Federal requirements can be found in section 6.0 of the draft EIS and section 1.1.6 of the final EIS. Western's obligations under the provisions of Section 7 of the Endangered Species Act of 1973, as amended, and under section 106 of the National Historic Preservation

Act of 1966, as amended, have not been completed. These requirements will be completed prior to construction.

Relationships With Associated Projects

Western's decision to participate in the COTP was made after consideration of the impacts associated with actions addressed in BPA's IDU EIS. The final IDU EIS was issued on April 15, 1988. Appendix D of Volume 3A of the draft EIS for the COTP contained a summary of the draft IDU EIS. Section 1.5.4 of the final COTP EIS contained a summary of the results of analyses conducted for the final IDU EIS. Western was a cooperating agency in the IDU EIS preparation.

Decisions on the Los Banos-Gates Project will be made by PG&E as the project proponent, and by the CPUC as the State agency responsible for regulating the IOU's. The CPUC will consider the information in the COTP EIS in its decision on whether to issue a Certificate of Public Convenience and Necessity for the project. The CPUC will address the final configuration and route for the Los Banos-Gates Project.

Decisions on the PNW Reinforcement Project and BPA's participation in the COTP will be made by BPA, based on the environmental information contained in the COTP EIS, IDU EIS, and the Bureau of Land Management's Eugene-Medford EIS. BPA will issue a record of decision that will address the final configuration of the PNW Reinforcement Project and adopted mitigation measures. The decision by BPA on whether to allow the interconnection of the COTP with their facilities in the Pacific Northwest Intertie system will also be addressed in their record of decision.

Issued at Golden, Colorado, April 22, 1988.

William H. Clagett,

Administrator.

[FR Doc. 88-11087 Filed 5-17-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances

[OPP-00259; FRL-3381-1]

Pesticide Monitoring Inventory; Availability for use By the General Public

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Pesticide Monitoring Inventory (PMI) as of April 20, 1988. The PMI is a compilation of monitoring projects being performed by Federal, State, and local governments and private institutions.

FOR FURTHER INFORMATION CONTACT:

The User Support Staff

Constance A. Hoheisel, (703) 557-7499
 Leslie Davies-Hilliard, (703) 557-7494
 Thomas E. Dixon, (703) 557-5455
 Environmental Protection Agency,
 Office of Pesticide Programs, HED/
 EAB/Monitoring Section (TS-769C),
 401 M Street SW., Washington, DC
 20460.

For Brochures, Fact Sheets, and New Project Forms contact: Public Information Center (PIC), PM-211B, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-2080.

SUPPLEMENTARY INFORMATION: Section 20 (b) and (c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to monitor the environment for pesticide residues. In addition, the Agency has developed a National Monitoring Strategy which coordinates monitoring activities performed by all EPA program offices. The Office of Pesticide Programs' (OPP) response to both of these needs took the form of the National Pesticide Monitoring Plan (NPMP) which was completed in July of 1985.

The primary goal of the NPMP is to provide information on exposure and effects to enhance the accuracy of pesticide risk assessments and thereby improve the soundness of FIFRA risk/benefit regulatory decisions.

The PMI was created as a part of the NPMP. The data base contains a short synopsis of each pesticide monitoring project, including chemicals, substrates, and location. It also lists the name, address, and telephone number of a person to contact to gain additional information on a specific project.

The PMI is located on a personal computer and is accessible by dataphone similar to the PC to PC bulletin boards that are used to share information. It is completely menu driven and it is on-line 22 hours per day, Monday through Friday, and 24 hours per day on weekends. The PMI may be off-line between the hours of 1:00 and 3:00 p.m., Eastern Standard Time, each weekday for maintenance. Users may search for projects by chemical, substrate, EPA Region, State, and by various other criteria and download the results of their search to their own computer. To access the PMI, users must have a computer/modem or terminal

capable of being set at the following parameters:

Baud rate: 1200.

Databits: 7.

Stop: 1.

Parity: even.

Duplex: full.

Phone Number: (703) 557-1919; FTS 8-557-1919.

The PMI is intended to provide a network by which all those involved with regulating, manufacturing, or using pesticides may communicate and share monitoring information with each other. As the PMI expands, it will allow the user community to tap a broad base of information that will enhance their own monitoring programs, eliminate duplicative efforts, and encourage the development of cooperative, cost-effective programs. Those who could benefit from using the PMI include State and Federal regulatory agencies, EPA Regional Offices, environmental groups, pesticide-associated industry, researchers, and environmental and health officials.

In addition to assisting the general user community, the PMI will provide EPA with information that will aid in the evaluation of the effectiveness of regulatory actions, illustrate the environmental results of regulatory actions, and identify unanticipated, emerging health and environmental problems.

While OPP is providing the support which will allow the PMI to function, its growth and its ultimate value to users will largely depend upon users who provide monitoring projects for inclusion into the data base. To add your project to the PMI, contact any member of the User Support Staff or the Public Information Center (addresses above) to obtain New Project Forms.

Dated: May 4, 1988.

Susan H. Wayland,

Deputy Director, Office of Pesticide Programs.

[FR Doc. 88-10996 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50679; FRL-3381-3]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to

the use of pesticide for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

241-EUP-119. Issuance. American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 525 pounds of the insecticide/nematicide terbufos on 450 acres of field corn, grain sorghum, and sugar beets to evaluate the control of various insects and nematodes. The program is authorized in the States of Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from March 23, 1988 to March 23, 1990. A permanent tolerance for residues of the active ingredient in or on field corn, grain sorghum, and sugar beets has been established (40 CFR 180.352). (William Miller, PM 16, Rm. 211, CM#2, (703-557-2600))

55661-EUP-1. Renewal. Melamine Chemicals Inc., P.O. Box 748, Donaldsonville, LA 70346. This experimental use permit allows the use of 4,432 pounds of the herbicide hexazinone on 3,530 acres of Christmas tree plantations and conifer forests to evaluate the control of herbaceous and woody weeds. The program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Montana, North Carolina, Oregon, South Carolina, Tennessee, Virginia, and Washington. The experimental use permit was previously effective from March 17, 1986 to June 30, 1987; the permit is now effective from March 31, 1988 to June 30, 1989. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

45639-EUP-27. Renewal. Nor-Am Chemical Company, P.O. Box 7495, 3509 Silverside Road, Wilmington, DE 19803. This experimental use permit allows the

use of 300 pounds of the insecticide amitraz on 300 acres of cotton to evaluate the control of mites. The program is authorized only in the States of Alabama, Arizona, California, and Texas. The experimental use permit was previously effective from April 24, 1987 to April 24, 1988; the permit is now effective from April 18, 1988 to April 18, 1989. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. [Dennis Edwards, PM 12, Rm. 202, CM#2 (703-557-2386)]

45639-EUP-33. Issuance. Nor-Am Chemical Company, P.O. Box 7495, 3509 Silverside Road, Wilmington, DE 19803. This experimental use permit allows the use of 1,369.875 pounds of the miticide clofentezine on 3,725 acres of almonds, nectarines, and peaches to evaluate the control of the European red mite. The program is authorized only in the States of California, Colorado, Michigan, New Jersey, New York, Oregon, Pennsylvania, and Washington. The experimental use permit is effective from March 30, 1988 to March 30, 1989. A temporary tolerance for residues of the active ingredient in or on almonds, nectarines, and peaches has been established. [Dennis Edwards, PM 12, Rm. 202, CM#2 (703-557-2386)]

707-EUP-105. Renewal. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 818 pounds of the fungicide alpha-butyl-alpha-[4-chlorophenyl]-1H-1,2,4-triazole-1-propanenitrile on 605 acres of apples and grapes to evaluate the control of blackrot, powdery mildew, rusts, and scabs. The program is authorized only in the States of Arkansas, Arizona, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit was previously effective from February 28, 1986 to February 28, 1988; the permit is now effective from March 23, 1988 to March 1, 1989. A temporary tolerance for residues of the active ingredient in or on apples and grapes has been established. [Lawerence Schnaubelt, PM 21, Rm. 233, CM#2, (703-557-8610)]

55947-EUP-8. Extension. Sandoz Crop Protection Corporation, 1300 East Touhy Avenue, Des Plaines, IL 60018. This experimental use permit allows the use of 603 pounds of the herbicide norflurazon on 420 acres of peanuts to evaluate the control of various weeds.

The program is authorized only in the State of Alabama, Florida, Georgia, North Carolina, South Carolina, and Texas. The experimental use permit is effective from April 9, 1988 to April 9, 1989. A temporary tolerance for residues of the active ingredient in or on peanuts has been established. [Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830)]

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: May 9, 1988.

Edwin F. Tinsworth,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-10997 Filed 5-17-88; 8:45 am]
BILLING CODE 6560-50-M

[PP 4G3149 and PP 7G3479/T561; FRL-3381-6]

Myclobutanil; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA.)

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the fungicide myclobutanil and its metabolites containing both the chlorophenyl and triazole rings in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire February 28, 1989.

FOR FURTHER INFORMATION CONTACT:

By mail: Lois Rossi, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: RM. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the Federal Register on April 17, 1986 (51 FR 13091) and February 24, 1988 (53 FR 5465), stating that a temporary tolerance had been established for the combined residues of the fungicide myclobutanil [alpha-butyl-alpha-[4-chlorophenyl]-1H-1,2,4-triazole-1-propanenitrile] and its metabolites containing both the

chlorophenyl and triazole rings in or on the raw agricultural commodities apples and grapes at 0.5 part per million (ppm), and for residues of myclobutanil on meat, fat and meat byproducts (except liver) of cattle, goats, hogs, horses and sheep at 0.04 ppm; liver of cattle, goats, hogs, horses and sheep at 0.2 ppm; meat, fat and meat byproducts of poultry, eggs and milk at 0.02 ppm. EPA renewed a related food additive regulation (21 CFR 193.477) for myclobutanil in or on raisins and a feed additive regulation (21 CFR 561.443) for myclobutanil in or on raisin waste, apple pomace, and grape pomace, published in the *Federal Register* of April 20, 1988 (53 FR 12942). These tolerances were renewed in response to pesticide petitions PP 4G3149 and PP 7G3479, submitted by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105.

The company has requested a 1-year renewal of the temporary tolerances for the combined residues of the fungicide and its metabolites to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 707-EUP-105, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire February 28, 1989. Residues not in excess of this amount remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be

revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 10, 1988.

Edwin F. Tinsowrth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-11126 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3381-5]

Privacy Act of 1974; System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice of System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the United States Environmental Protection Agency (EPA), gives notice of a system of records designated as Claims Office Master Files (COMF). This system contains records for EPA's claim programs which include administrative tort claims, debt collection claims, employee personal property claims, waiver of overpayment of pay claims, garnishment claims for alimony and/or child support, and rental car deductible claims.

EFFECTIVE DATE: The Environmental Protection Agency is requesting a waiver from the Office of Management and Budget of its sixty-day advance review period. If the Office of Management and Budget grants the waiver, this system will become formally operational thirty days after publication unless comments are received which would result in a contrary determination.

ADDRESS: Claims Officer, Office of General Counsel (LE-132G), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Ray E. Spears, Claims Officer, Office of General Counsel (LE-132G), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: COMF is composed of six subsystems. These subsystems are: (1) COMF-TOR which contains records relating to claims under the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*; (2) COMF-FCC which contains records relating to EPA debt collection claims under the Federal Claims Collection Act, as amended, 31 U.S.C. 3711 *et seq.*; (3) COMF-MCE which contains records relating to EPA employee claims for loss or damage to personal property under the Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 3721; (4) COMF-WAV which contains records relating to EPA employee requests for waiver of erroneous payments of pay pursuant to the provision of 5 U.S.C. 5584; (5) COMF-GAR which contains records relating to claims against EPA employees for garnishment of salary for alimony and/or child support payments pursuant to the provisions of 42 U.S.C. 659, 661-662; and (6) COMF-RCD which contains records relating to employee claims for reimbursement of rental vehicle collision deductibles as authorized travel related expenses under 5 U.S.C. 5704.

Dated: May 5, 1988.

Charles Grizzle,

Assistant Administrator for Administration and Resources Management, United States Environmental Protection Agency.

EPA-24

SYSTEM NAME:

Claims Office Master Files (COMF)—EPA/OGC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Claims Office, Room 1045 West Tower, 401 M Street SW., Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The COMF contains claim records affecting individuals in six categories. COMF-TOR is composed of records covering individuals filing claims under the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, for money damages for injury, death or damage caused by the negligence or wrongful acts or omissions of employees of EPA. COMF-FCC is comprised of records covering individuals who are indebted to EPA

and against whom EPA has initiated actions under the Federal Claims Collection Act, 31 U.S.C. 3711 *et seq.* COMF-MCE is composed of records covering individuals making claims for loss or damage to personal property under the Military Personnel and Civilian Employees Claims act, 31 U.S.C. 3721. COMF-WAV is composed of records covering individuals requesting waiver under 5 U.S.C. 5584 of claims for erroneous payments of salary or transportation expenses. COMF-GAR is composed of records covering EPA employees whose salaries are garnished under 42 U.S.C. 659, 661-662 for alimony and/or child support. COMF-RCD is composed of records covering individuals claiming reimbursement of collision deductible payments on rental vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

COMF-TOR contains records relating to tort claims against EPA. It may contain administrative claims, investigative reports, witness statements, certifications of scope of employment, damage estimates, medical records, letters to claimants, claimant responses, the Agency final decision on claims, and other records concerning tort claims.

COMF-FCC contains documents relating to debts owed EPA by individuals, corporations, State and local governments, and Indian tribes. It may include documents which evidence the debt (e.g., audit reports, travel voucher, consent decrees, etc.), demand letters, debtor responses, credit reports, information obtained from private collection agencies, and other records concerning debt claims. It may contain the social security numbers of individual debtors to the extent such numbers are contained in travel vouchers or other documents upon which the debt is based.

COMF-MCE contains records relating to employee claims for loss or damage to personal property. It may contain administrative claim forms, investigative reports, supervisor's reports, accident reports, documentation of the amounts claimed as damages, the Agency final action on claims, and other records concerning employee property claims.

COMF-WAV contains records relating to employee requests for waiver by the Government of claims for erroneous payment of salary or travel expenses. It may contain employee request for waiver forms, investigative reports and recommendations, certifications of the amount of overpayment, personnel records

relevant to overpayments, evidence of the Government's final action on the request, and other records concerning waiver requests. The social security number of the employee is contained in the file.

COMF-GAR contains legal documents supporting the garnishment of the salary of EPA employees. It may include the order of garnishment or attachment, notices to the employee of garnishment, responses by the employee, payroll information, and other records concerning garnishment requests. The social security number of the employee may be contained in the file.

COMF-RCD contains records required to settle claims against EPA employees for rental car damage deductible claims. It may contain rental agreements, accident reports, damage estimates, employee requests for reimbursement, travel vouchers, correspondence with rental car companies, evidence of the Agency final action on the claim, and other records concerning rental car deductible claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory and regulatory authorities for maintenance of records in COMF are:

COMF-TOR—28 U.S.C. 2671 *et seq.* and 40 CFR Part 10.

COMF-FCC—31 U.S.C. 3711 *et seq.* and 4 CFR Parts 101-105.

COMF-MCE—31 U.S.C. 3721 and 40 CFR Part 14.

COMF-WAV—5 U.S.C. 5584 and 4 CFR Parts 91-93.

COMF-GAR—42 U.S.C. 659, 661-662 and 5 CFR Part 581.

COMF-RCD—5 U.S.C. 5704.

Executive Order 9397, November 22, 1943, provides authority for collection of social security numbers.

PURPOSE:

The purpose of COMF is to assist the EPA Claims Office in managing its receipt, tracking, processing and resolution of claims and to assist the Department of Justice and the General Accounting Office in final resolution of claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses identified in paragraphs 1 through 7 apply generally to all of the subsystems of COMF. The routine use identified in paragraph 8 applies only to COMF-WAV, the routine use in paragraph 9 applies only to COMF-FCC, the routine uses in paragraphs 10 and 11 apply only to COMF-RCD, and the routine use in

paragraph 12 applies only to COMF-GAR.

1. To a Member of Congress or a congressional office in response to an inquiry from that Member or office made at the request of the individual to whom the record pertains.

2. To a Federal agency which has requested information relevant to its decision in connection with a claim filed by or against an employee; the reporting of an investigation on an employee; the letting of a contract; or the issuance of a security clearance, license, grant, or other benefit.

3. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning a claim by or against an employee.

4. To an appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where there is an indication of a violation or potential violation of the statute, rule, regulation or order and the information disclosed is relevant to the matter.

5. To the Department of Justice to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency.

6. In a proceeding before a court, other adjudicative body or grand jury, or in an administrative or regulatory proceeding, to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to the proceeding in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency. Such disclosures include, but are not limited to, those made in the course of presenting evidence, conducting settlement negotiations, and responding to subpoenas and requests for discovery.

7. To representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

8. Records maintained in the COMF-WAV subsystem may be disclosed to the General Accounting Office in connection with its responsibility for approving waiver of erroneous overpayment of pay claims pursuant to 5 U.S.C. 5584 and 4 CFR Parts 91-93.

9. Records maintained in the COMF-FCC subsystem may be disclosed to commercial collection agencies under contract with EPA, as provided by 31 U.S.C. 3718 and 40 CFR Part 13, for collection purposes.

10. Records maintained in the COMF-RCD subsystem may be disclosed to rental car companies as part of EPA's resolution of claims by the rental car companies for damage.

11. Records maintained in COMF-RCD may be disclosed to Federal agencies where relevant to their involvement in the rental agreement or claims arising from it.

12. Records maintained in the COMF-GAR subsystem may be disclosed to the State agency responsible for child support and/or alimony collection and enforcement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from records maintained in the COMF-FCC subsystem to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3701(a)(3)(B)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in COMF are maintained in file folders in file cabinets within the Claims Office and are accessible through computer indexes maintained in the Claims Office.

RETRIEVABILITY:

Records in COMF are retrievable by the name of the person, corporation, local or state government or Indian tribe, and the assigned claim number. This information is maintained in computer indexes within the Claims Office.

SAFEGUARDS:

COMF records are kept in locked file cabinets in a building with restricted

access. The computer indexes are accessible only through a personal computer within the claims area and which has restricted entry requiring keyed access.

RETENTION AND DISPOSAL:

COMF records are retained for ten (10) years. A resolved claim is retained within the Claims Office for five (5) years then transferred to the Federal Records Center where it is retained for an additional five (5) years. The record is destroyed by the Federal Records Center at the end of the retention period.

SYSTEM MANAGER AND ADDRESS:

EPA Claims Officer, Office of General Counsel (LE-132G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if COMF contains a record pertaining to them may send an inquiry to the System Manager at the address identified above. The inquiry should contain the full name and address of the claimant, a specific statement of what is requested and the assigned EPA claim number if known. The System Manager may require additional identifying information.

RECORD ACCESS PROCEDURE:

Same as notification procedures. In addition, the requestor should identify the specific record being sought.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. In addition, the individual should reasonably identify the record, specify the information he/she is contesting, and provide justification for the requested amendment or correction.

RECORD SOURCE CATEGORIES:

Information in all COMF subsystems is provided by the individual covered by the system and by EPA employees in their official capacities. In addition, other sources may provide information as follows:

COMF-TOR—local police authorities and witnesses;

COMF-FCC—private collection agencies and credit bureaus, other Federal agencies, local officials and State employees;

COMF-MCE—law enforcement and security personnel;

COMF-GAR—State court authorities and garnishors;

COMF-RCD—rental car companies and automobile repair companies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 88-11127 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

Dated: May 6, 1988.

J. Merenda,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 88-11128 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44506; FRL-3381-9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on biphenyl (CAS No. 92-52-4) submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the *Federal Register* reporting the receipt of test data submitted pursuant to test rules 88T-412 promulgated under section 4(a) within 15 days after it received.

I. Test Data Submission

Test data for biphenyl was submitted by The Dow Chemical Company pursuant to a test rule at 40 CFR 799.925. It was received by EPA on May 3, 1988. The submission describes an embryo larval toxicity test with rainbow trout, *salmo gairdneri* Richardson. Fish early life stage toxicity testing is required by this test rule. Biphenyl is used primarily to produce dye carriers, heat transfer fluids and alkylated biphenyls.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the submission's completeness.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44506). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2803.

[PP 6G3319/T559; FRL-3380-4]

Norflurazon; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the herbicide norflurazon and its desmethyl metabolite in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire March 30, 1989.

FOR FURTHER INFORMATION CONTACT:

By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460
Office location and telephone number: Room 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-1830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the *Federal Register* of June 11, 1986 (51 FR 21235), announcing the establishment of temporary tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-m-tolyl)-3(2H)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluoro-m-tolyl)-3(2H)-pyridazinone] in or on the following raw agricultural commodities: Peanuts at 0.2 part per million (ppm), peanut hulls at 1.0 ppm, and peanut vines at 2.0 ppm. These tolerances were issued in response to pesticide petition (PP) 6G3319, submitted by Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL 60018.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 55947-EUP-8, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it

was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Sandoz Crop Protection Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 30, 1989. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 3, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-10879 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-62060; FRL-3381-8]

Receipt of Application for Approval To Dispose of Polychlorinated Biphenyls

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of application.

SUMMARY: EPA Headquarters has received an application from General Electric Company, Schenectady, New York, for nationwide approval to dispose of polychlorinated biphenyls (PCBs) using a solvent distillation system. This approval process is done under the authority of section 6(e) of the Toxic Substances Control Act (TSCA). EPA is notifying interested persons of the request, and comments may be submitted.

DATE: Comments should be received by June 17, 1988.

ADDRESS: Three copies of written comments should be addressed to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M St., SW., Washington, DC 20460.

Comments should bear the identifying notation OPTS-62060. The application [without confidential business information] and comments received in response to this notice are available for public inspection and copying in Rm. NE-G004 at the address noted above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: Under 40 CFR 761.60(e), the Regional Administrators and the Assistant Administrator for Pesticides and Toxic Substances (OPTS) share the approval authority for permitting alternative PCB disposal technologies. A Regional Administrator determines whether to approve an application when the disposal will take place in that region only or, in the case of research and development (R and D), on PCB disposal methods involving less than 500 pounds of PCB material. The Assistant Administrator for OPTS determines whether to approve applications for mobile and other types of PCB disposal technologies that may be operated in more than one region or, in the case of R and D, on disposal methods involving 500 pounds or more of material.

Notwithstanding, the Assistant Administrator for OPTS may delegate the authority to review and approve any aspect of a disposal system to OPTS staff or to a Regional Administrator. The rationale for permit approval authority is discussed in "Polychlorinated Biphenyls (PCBs); Procedural

Amendment of the Approval Authority for PCB Disposal Facilities and Guidance for Obtaining Approval," published in the *Federal Register* of March 30, 1983 (48 FR 13181).

In general, EPA may approve alternative methods of PCB disposal if they achieve a level of performance equivalent to an incinerator approved under 40 CFR 761.70 or a high efficiency boiler approved under 40 CFR 761.60 and will not present an unreasonable risk of injury to health or the environment. EPA also imposes some protective conditions requiring the application to address such items as testing of all gaseous, liquid, and solid effluent streams for PCBs and any other contaminants which may potentially contribute to the environmental risk of operating the disposal unit. To obtain a permit for an alternative method of PCB disposal, the applicant must supply detailed technical descriptions and drawings of the site, process and control equipment, monitoring and sampling methods, quality assurance plan, and emergency and contingency measures, as well as a full discussion of all cleanup and closure procedures.

When EPA Headquarters receives a permit application, it reviews the application and determines if the permit application is complete. If the application is not acceptable, EPA lists its deficiencies in a letter to the applicant and the applicant can remedy the application. If the application is acceptable, a determination is made whether a process demonstration is needed. If one is needed, the applicant must submit a demonstration test plan to the Agency. After receipt of the process demonstration test plan, EPA either approves, requires modification or additions to the process demonstration test plan, or disapproves it and notifies the applicant. Once the Agency accepts a process demonstration test plan, a demonstration test approval is issued by EPA. As part of this approval, the applicant will be required to give advance written notice of at least 30 days to the EPA regional office and State and local governments where the process demonstration will take place. This 30-day period provides the public an opportunity to discuss local issues related to the planned disposal operation and provides the EPA regional office with information necessary for effective monitoring for compliance with the demonstration approval. If the application cannot be approved because the process demonstration test fails, the problems with the process demonstration are addressed on a case-by-case basis.

EPA will grant or deny approval for full scale operation based on a review of the application package, demonstration test results, and other submitted information. Approval for operation will contain special conditions that EPA finds necessary to protect human health or the environment. It also requires compliance with all applicable State, local, or other Federal requirements. The PCB disposal approval decision process (from receipt of the permit application to issuance of a final approval) generally can take from 6 months to 1 year, depending on the quality of information submitted by the applicant and the complexities involved. If a permit is issued for more than one site, 30-day notice is required before operation may begin at any site other than where the process demonstration took place.

The application from General Electric Company proposes the following plan. Transformers containing PCBs are flushed with trichlorotrifluoroethane (freon). The PCB-contaminated solvent is distilled in the disposal system to produce a clean solvent and PCB still bottoms. The clean solvent is recovered for reuse in the flushing process and the remaining PCB still bottoms are incinerated in an EPA-approved incinerator. If approved, the process will be used in facilities in Atlanta, Georgia; Chicago, Illinois; Cincinnati, Ohio; Cleveland, Ohio; Houston, Texas; Philadelphia, Pennsylvania; Portland, Oregon; and Tonawanda, New York.

In determining whether to approve this application, EPA will take into consideration, along with other factors, the comments received on the application.

Dated: May 10, 1988.

Martin P. Halper,
Director, Exposure Evaluation Division.
[FR Doc. 88-11125 Filed 5-17-88; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice: Correction.

SUMMARY: This action corrects the frequency of the report as published in the *Federal Register* of Tuesday May 10, 1988. In FR document 88-10343, published Tuesday, May 10, 1987, on page 16586, on the "Frequency Report line" of the document: "Annually" is changed to read "Biennially."

FOR FURTHER INFORMATION CONTACT: Margaret P. Ulmer, (202) 634-1932.

. For the Commission:
John Seal,
Management Director, Equal Employment Opportunity Commission.
[FR Doc. 88-11088 Filed 5-17-88; 8:45 am]
BILLING CODE 6570-06-M

FEDERAL RESERVE SYSTEM

FNW Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Co's.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 9, 1988.

A. Federal Reserve Bank of Chicago
(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FNW Bancorp, Inc.*, Elgin, Illinois; to acquire 100 percent of the voting shares of Bank of Cahokia, Cahokia, Illinois. Comments on this application must be received by June 8, 1988.

2. *First Colonial Bankshares Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of American Bank & Trust Company, Springfield, Illinois.

B. Federal Reserve Bank of St. Louis
(Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63168:

1. *Casey County Bancorp, Inc.*, Liberty, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The

Casey County Bank, Inc., Liberty, Kentucky.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Ostrander Bancshares, Inc.*, Ostrander, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Ostrander State Bank, Ostrander, Minnesota.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kansas Bank Corporation*, Liberal, Kansas; to acquire 100 percent of the voting shares of American National Bancshares of Westlink, Inc., Wichita, Kansas, and thereby indirectly acquire American National Bank of Westlink, Wichita, Kansas.

Board of Governors of the Federal Reserve System, May 12, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-11072 Filed 5-17-88; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Intent To Prepare an Environmental Impact Statement for the Proposed Construction of a New Federal Building in Downtown Chicago

The General Services Administration (GSA) is preparing an Environmental Impact Statement (EIS) for the proposed construction of a 600,000 occupiable square foot Federal office building in downtown Chicago. The limits of the geographical area under consideration for the building are bounded to the north and west by the Chicago River, to the east by Lake Michigan, and to the south by Congress Parkway.

The proposed Federal Building will house the regional headquarters of various Federal agencies. The principal utilization of the facility will be for administrative and management functions; minimal public service functions are anticipated. Sixty parking spaces reserved for Government use will also be incorporated into the structure.

The building will be acquired through a lease finance mechanism which will place the property in private ownership for as long as thirty years. GSA intends to award a lease contract to a developer by the Fall of 1988. Offerors will identify, propose, and acquire the site, as well as suggest their own design for the building. Occupation of the

completed facility is projected for mid-1991.

The EIS will evaluate potential environmental and socio-economic impacts resulting from the different project alternatives. Both the new Federal Building and "No Action" alternatives will be included. Historic, cultural, and urban quality effects will be assessed in the EIS, as well as impacts on transportation, parking, utilities and services, and real estate market activity. Potential short-term and long-term impacts will be discussed in the EIS.

A scoping meeting is scheduled to provide interested parties with an opportunity to identify the significant issues which will arise as a result of the proposed project and alternatives. The details of the meeting are described below.

Scoping Meeting

Date: May 20, 1988

Time: 10:00 a.m.

Place: Kluczynski Federal Building, 230 South Dearborn Street, Room 3518, Chicago, Illinois

All participants are requested to register by mail or in person if they elect to make an oral presentation at the meeting. Oral presentations will be limited to ten minutes. Written comments will be accepted for incorporation into the record at the meeting and for ten workdays following the meeting.

For more information or to register for an oral presentation at the scoping meeting, please contact or direct correspondence to: Matthew A. Kling, Planner, Planning Staff—5PL, 230 South Dearborn Street, Rm. 3618, Chicago, Illinois 60604, (312) 353-5610.

May 10, 1988.

Kenneth J. Kalscheur,
Acting Regional Administrator.

[FR Doc. 88-11060 Filed 5-17-88 8:45 am]

BILLING CODE 6820-BR-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Interest Rate on Overdue Debts; Federal Claims Collection

Section 30.13 of the Department of Health and Human Service's claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery.

The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 14.5% for the quarter ended March 31, 1988. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Date: May 11, 1988.

Dennis J. Fischer,

Deputy Assistant Secretary, Finance.

[FR Doc. 88-11026 Filed 5-17-88; 8:45 am]

BILLING CODE 4150-04-M

Agency for Toxic Substances and Disease Registry

Board of Scientific Counselors; Meeting

ACTION: Notice of meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following committee meeting.

Name: Board of Scientific Counselors, ATSDR.

Time and Date:

8:30 am—4:30 pm—June 1, 1988.

9:00 am—1:00 pm—June 2, 1988.

Place: Auditorium B, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of the science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize.

Agenda: The entire meeting will be open to the public. Written comments for consideration by the Board are welcomed and should be received by the Executive Secretary prior to the opening of the meeting. The meeting will include an orientation of Board members to ATSDR programs and activities. A program of work for the

Board will be developed at this initial meeting.

Also, the agenda will include a description of ATSDR national registry of persons exposed to hazardous substances and the Board's response to selected scientific questions about the registry. Agenda items are subject to change as priorities dictate.

Contact person for more information: Charles Xintaras, Sc.D., Executive Secretary, Board of Scientific Counselors, ATSDR, Chamblee 27, Mail Stop F-38, 1600 Clifton Road, NE., Atlanta, Georgia 30033. Telephone: FTS: 236-4800; Commercial: 404-488-4800.

Dated: May 12, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 88-11066 Filed 5-17-88; 8:45 am]

BILLING CODE 4160-70-M

Centers for Disease Control

Immunization Conference; Meeting

ACTION: Notice of Meeting—22nd National Immunization Conference. Federal, State, and local public health officials as well as representatives from the private sector who are involved in the organization and implementation of immunization activity will participate.

Time and Date: Registration—Sunday, June 19, 1988. The Program is scheduled for 8:30 a.m.—5 p.m., Monday, June 20, through Thursday, June 23, and from 8:30 a.m.—12:00 noon on Friday, June 24.

Place: St. Anthony Inter-Continental Hotel, San Antonio, Texas, 512/227-4392.

Status: Open to public, limited only by the space available.

Matters to be Discussed: Current status of the epidemiology, prevention, and control of vaccine preventable diseases.

Contact person for more information: Mr. Conrad P. Ferrara, Program Support Section, Division of Immunization, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333. Telephone: FTS 236-1836; Commercial: 404/639-1836.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88-11065 Filed 5-17-88; 8:45 am]

BILLING CODE 4160-18-M

Tuberculosis Elimination Advisory Committee; Meeting

ACTION: Notice of meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Advisory Committee for Elimination of Tuberculosis (ACET).

Time and Date: 8:00 a.m.-5:00 p.m., July 27, 1988; 8:00 a.m.-12:30 p.m., July 28, 1988.

Place: Conference Room 207, Building 1, Centers for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open.

Purpose: This Committee advises and makes recommendations to the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for eliminating tuberculosis. Specifically, the Committee makes recommendations regarding policies, strategies, objectives, and priorities, addresses the development of new technologies and their subsequent application, and reviews progress toward elimination.

Matters to be Discussed: Tuberculosis control in correctional institutions, tuberculosis and human immunodeficiency virus (HIV) infection, tuberculosis control among the foreign-born. Agenda items are subject to change as priorities dictate.

Contact person for more information: Dixie E. Snider, Jr., M.D., Director, Division of Tuberculosis Control, and Executive Secretary, ACET, Center for Prevention Services, CDC, 1600 Clifton Road, NE, Mailstop E-10, Atlanta, Georgia 30333, Telephones: FTS: 236-2501; Commercial: 404/639-2501.

Dated: May 12, 1988.

Elvin Hiley,
Associate Director for Policy Coordination,
Centers for Disease Control.

[FR Doc. 88-11064 Filed 5-17-88; 8:45 am]
BILLING CODE 4160-18-M

Food and Drug Administration

[FDA 225-88-2002]

Memorandum of Understanding Between the State Administration of Import and Export Commodity Inspection of the People's Republic of China and the Food and Drug Administration; Ceramicware for Food Use

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of

understanding (MOU) between the State Administration of Import and Export Commodity Inspection of the People's Republic of China and FDA, U.S. Department of Health and Human Services. This MOU describes two mutual goals of the State Administration of Import and Export Commodity Inspection of the People's Republic of China and FDA. The two goals are to: (1) Establish certification requirements for ceramicware intended for use in the preparation, serving, or storage of food exported directly to the United States or via Hong Kong from the People's Republic of China, and (2) minimize the need for extensive FDA audit sampling of these food-related products.

DATE: This agreement became effective February 26, 1988.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1582.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all agreements and memoranda of understanding between FDA and others shall be published in the *Federal Register*, the agency is publishing this memorandum of understanding.

Dated: May 12, 1988.

John M. Taylor,
Associate Commissioner for Regulatory Affairs.

Memorandum of Understanding Between the Food and Drug Administration, Department of Health and Human Services of the United States of America and the State Administration of Import and Export Commodity Inspection of the People's Republic of China, Covering Ceramicware Intended for Use in the Preparation, Serving, or Storage of Food or Drink and Offered for Export to the United States of America.

I. Purpose

The mutual goals of the Food and Drug Administration (FDA) of the United States of America and the State Administration of Import and Export Commodity Inspection of the People's Republic of China (hereinafter known as the SACI) in entering into this Memorandum of Understanding are to:

- Establish certification requirements for ceramicware intended for use in the preparation, serving or storage of food exported directly to the United States or via Hong Kong from the People's Republic of China, in order to assure that ceramicware having an unsafe

quantity of leachable lead or cadmium will not be exported to the United States.

- Minimize the need for extensive FDA audit sampling of these food related products from the People's Republic of China certified by the various Provincial or Municipal China Import and Export Commodity Inspection Bureaus (hereinafter known as CCIBs') that would be necessary without this Memorandum of Understanding.

II. Definitions

For the purposes of this Memorandum, both parties agree to the following definitions:

Production Lot—A production lot is a unit of ceramicware which the CCIBs' certify to be uniform and that represents ceramicware from no more than one homogeneously milled slip. The lot must be uniform in the time and temperature of firing and the composition and application of the decorations.

Delivery Lot—A delivery lot is a unit of ceramicware, shipped at one time, consisting of a production lot or several production lots. It is packaged in containers/cartons that identify each production lot separately and bear the name and address of the manufacturer.

Sample—A sample is six units, randomly selected, of identical size, shape, color and decoration from each production lot.

Flatware—Flatware are ceramic articles that have an internal depth, as measured from the lowest point to the horizontal plane passing through the upper rim, that does not exceed 25 mm.

Hollowware—Hollowware products are ceramic articles having an internal depth, as measured from the lowest point to the horizontal plane passing through the upper rim, greater than 25 mm. The two sizes of hollowware are:

Small hollowware: a capacity of less than 1.1 liter; and,

Large hollowware: a capacity of 1.1 liter or more.

Action level—The limit above which FDA will take legal action to remove products from the market.

III. Substance of Agreement

The State Administration of Import and Export Commodity Inspection of the People's Republic of China

The State Administration of Commodity Inspection (SACI) is the competent authority in charge of unified supervision and administration of all of China's import and export commodity inspections. The CCIBs', attached to SACI, are authorized to conduct the

inspection of Chinese ceramicware exported directly or via Hong Kong to the United States. To fulfill its responsibilities under this agreement, the CCIBs' will direct their activities to assuring that the ceramicware products that are to be offered for export to the United States are safe for use in the preparation, serving or storage of food or drink, by inspecting ceramicware products before distribution and by collecting and examining samples to assure compliance with the requirements identified in Section VI. CRITERIA FOR CERTIFICATION FOR EXPORT OF CERAMICS.

To discharge its responsibilities regarding ceramicware products that are to be offered for export to the United States.

1. The CCIBs' are responsible for inspecting and issuing certificates for ceramicware exported to the United States under contracts signed by Chinese corporations. The CCIBs' will have their laboratories examine a representative sample of each category of ceramicware (i.e., Flatware, Small hollowware, and large hollowware) from each production lot of ceramicware to be offered for export to the United States. This inspection will be made to determine whether the ceramicware in each production lot exceeds the action levels specified in Section VI. CRITERIA FOR CERTIFICATION FOR EXPORT OF CERAMICS. The laboratories of the CCIBs' will assure, by appropriate procedures, that these analyses are completed as described in Section V. ANALYTICAL METHODOLOGY.

2. The CCIBs' shall offer for export and shall issue a certificate only for those production lots that meet the criteria set forth in section VI. CRITERIA FOR CERTIFICATION FOR EXPORT OF CERAMICS.

3. The CCIBs' shall require that all containers/cartons of delivery lots of ceramicware exported to the United States under certification be marked with the production lot number(s).

4. The CCIBs' shall include the following information on the certificate for each production lot of the ceramicware exported to the United States:

(a) Production lot identification, including name and address of manufacturer;

(b) Test methodology used to determine the levels of leachable lead and cadmium;

(c) Analytical results of the tests for lead and cadmium;

(d) Number and types of pieces of ceramicware in each production lot;

(e) The number and types of the pieces of ceramicware that were tested;

(f) Date of the certification; and,
(g) Name of the authorizing official and seal of the office. The validated certificate(s) will accompany the shipping manifest.

5. Shipments exported to the United States via Hong Kong shall be sealed by the CCIBs' in such a way as to prevent opening during transit and they shall be accompanied by a valid CCIB's certificate.

6. The CCIBs' shall affix their certificate(s) to the packing list supplied by the manufacturer, for every production lot present in each delivery lot.

7. The CCIBs' shall furnish FDA, upon request, with a copy, both in English and in Chinese, of their current regulations and of the procedures it uses to assure that each production lot of ceramicware is acceptable.

The Food and Drug Administration, Department of Health and Human Services of the United States of America

FDA is charged with the enforcement of the Federal Food, Drug and Cosmetic Act and the Fair Packaging and Labeling Act, certain portions of the Public Health Service Act, and other related statutes. FDA directs its activities toward the protection of the public health of the United States by assuring that foods and food-related products are safe and wholesome and are honestly and informatively labeled. FDA accomplishes this goal firstly through inspections of manufacturers and distributors. Second, it collects and analyzes samples to assure compliance with the statutes it enforces. FDA makes a concerted effort to ensure that foods and food-related products entering the United States meet the same standards as domestic products. To discharge these responsibilities regarding ceramicware products exported to the United States from the People's Republic of China:

1. FDA may sample representative pieces from delivery lots certified under this agreement to audit the effectiveness and reliability of the certification process.

2. FDA shall detain the entry of all lots of ceramicware not accompanied by a valid certificate or those exceeding the CRITERIA FOR CERTIFICATION FOR EXPORT OF CERAMICS (Section VI).

3. FDA shall promptly notify SACI, and the Commercial Office of the Embassy of the People's Republic of China in the United States of America, of any lot of any ceramicware covered by this agreement which is detained. This notification shall include:

- The name of the product;
- Quantity of ceramicware detained;

c. Delivery and/or production lot numbers;

d. FDA's sample number;
e. Date sample collected;
f. Reason for detention;
g. Date of detention;
h. FDA's District and Port of Entry;
i. Manufacturer/shipper name;
j. Importer of record name; and,
k. The CCIBs' certificate number(s).

4. FDA shall promptly notify SACI of any modifications in the U.S. statutes or the FDA regulations pertaining to these ceramicware products.

5. FDA will share expertise and provide assistance to SACI when necessary. Both parties will have regular technical exchanges. Areas of mutual cooperation will include but not be limited to: Training; personnel exchanges; data gathering; technical information updating; and, the exchange of new and/or improved methods of sampling and testing of ceramicware products.

IV. Sample Collections

The same subsamples will be used for determining the presence of lead and cadmium. These subsamples will be obtained as follows:

Six (6) units, of identical size, shape, color and design will be collected from each sampled delivery lot.

V. Analytical Methodology

Compliance with the established action levels for lead and cadmium will be determined by using the analytical procedures described in the current edition of "Official Methods of Analysis, Association of Official Analytical Chemists," (currently, the 14th Ed., 1984, 25.031-25.034), except that the extraction step should be performed so that the surface under test is *NOT* exposed to light. The levels of lead and cadmium will be determined by analyzing the six (6) units at the same time, individually, according to the above cited method.

VI. Criteria for Certification for Export of Ceramics

Lots of ceramicware that exceed the following criteria will not be certified for export to the United States.

Category	Action basis	Action level (micrograms/mL)
1. Lead		
Flatware	Average of 6 units...	7.0
Small hollowware	Any one of 6 units...	5.0
Large hollowware	do...	2.5
2. Cadmium		
Flatware	Average of 6 units...	.5
Small hollowware	Any one of 6 units...	.5

Category	Action basis	Action level (micro-grams/ mL)
Large hollowware	do.....	.25

VII. Administrative Procedures

The parties will mutually agree on the ways and means of giving instructions and guidance for the practical implementation and application of this agreement.

VIII. Participating Parties

A. State Administration of Import and Export Commodity, Inspection of the People's Republic of China, 12, Jianguomenwai Street, Beijing, The People's Republic of China.

B. The Food and Drug Administration, The Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857.

IX. Liaison Officers

A. For the State Administration of Import and Export Commodity Inspection of the People's Republic of China:

Deputy Director, Division of Supervision and Control (Currently Mme. ZHANG Peiyu), 12, Jianguomenwai Street, Beijing, The People's Republic of China.

Telephone No. 500-1811.
Telex No. 210076 SACI CN.

B. For the Food and Drug Administration:

Mr. Edward A. Steele, Director, Division of Program Operations, Center for Food Safety and Applied Nutrition, 200 C Street, SW, Washington, DC 20204.

Telephone No. (202) 245-2140.
Telex No. 197623 PHS PKLN.

X. Period of Agreement and Textual Versions

This agreement shall become effective upon acceptance by both parties and

shall remain in effect indefinitely. It may be modified by mutual consent or terminated by either party upon a 30-day advance written notice to the other party.

This agreement is written in Chinese and English, both texts are equally valid.

In witness whereof, the agencies have executed this Memorandum of Understanding covering ceramicware products between our governments.

Approved and accepted for the Food and Drug Administration of the Department of Health and Human Services of the United States of America.

Frank E. Young,
Commissioner of Food and Drugs.

Dated: February 26, 1988.

Approved and accepted for the State Administration of Import and Export Commodity Inspection of the People's Republic of China.

Mr. Zhu Zhenyuan,
Deputy Director General.

Dated: December 5, 1987.

[FR Doc. 88-11074 Filed 5-17-88; 8:45 am]

BILLING CODE 4160-01-M

with Constitutionally Protected Property Rights.

EFFECTIVE DATE: May 9, 1988.

FOR FURTHER INFORMATION CONTACT:

Grady J. Norris, Assistant General Counsel for Regulations, Room 10276, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-7055. (This is not a toll-free number.)

Designation Of General Counsel As Responsible HUD Official Under Executive Orders 12606 and 12630

The General Counsel of the Department of Housing and Urban Development is designated as the departmental official responsible for implementation of Executive Orders 12606, September 2, 1987 (52 FR 34188, September 9, 1987), and Executive Order 12630, March 15, 1988 (53 FR 8859, March 18, 1988). As HUD's responsible official, the General Counsel is directed to take all actions necessary to ensure that the policies set out in these Executive Orders are implemented.

In particular, the General Counsel will assess proposed policies and regulations of the Department to determine:

(1) Whether features of HUD policy under consideration have positive or negative implications in light of the Family Policymaking Criteria set out in section 1 of Executive Order 12606;

(2) Whether actions undertaken or contemplated by the Department are consistent with the principals, criteria, and requirements stated in sections 1 through 5 of Executive Order 12630.

The General Counsel shall be responsible, in each instance where the policies of these Executive Orders are affected by a departmental policy or regulation, for assuring full adherence to the principles set out in the Orders.

Date: May 9, 1988.

Samuel R. Pierce, Jr.,
Secretary.

[FR Doc. 88-11056 Filed 5-17-88; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-88-875; FR-25-16]

General Counsel of the Department of Housing and Urban Development; Designation as Official Responsible for Implementation of Executive Order 12606 and 12630

AGENCY: Office of the Secretary, HUD.
ACTION: Designation.

SUMMARY: This document designates the General Counsel of the Department as the HUD official responsible for ensuring the implementation of Executive Order 12606 on The Family and Executive Order 12630 on Governmental Actions and Interference

4310-NB

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 MINERALS MANAGEMENT SERVICE
 South Atlantic Outer Continental Shelf Lease Sale 108
 Request for Interest

Purpose

Proposed Sale 108--South Atlantic is being reviewed by the Secretary of the Interior to determine whether the Outer Continental Shelf (OCS) presale process should be initiated for this sale. The oil and gas industry is asked to assist in this process by providing up-to-date information on its interest in leasing and exploring in the South Atlantic.

The responses will assist the Secretary of the Interior in determining if the presale process for the proposal should be started, delayed, or deferred for consideration in a future 5-year schedule. This approach is designed to add flexibility to the program by providing for the reasonable possibility that changes in geologic data and economic or other conditions could create bidding interest in areas which may now appear unattractive. For example, a substantial oil price increase (such as might result from an oil supply disruption), if anticipated to be relatively long term, could turn an area now unattractive to potential bidders into one which could be of interest. Other information of interest would include new geophysical data; new geological data; new interpretations of existing data; and new estimates of costs of production. By requesting information and acting on it prior to the issuance of the Call for Information and Nominations, the risk of inappropriate expenditures for such sales would be reduced.

If the Request for Interest indicates sufficient interest to warrant proceeding with the sale, these prelease steps will follow: Call for Information and Nominations and Notice of Intent to Prepare an Environmental Impact Statement (EIS); Area Identification; draft EIS; Public Hearing; final EIS; proposed Notice of Sale; Governors' Comments; and final Notice of Sale.

Description of the Area

The South Atlantic Planning Area extends east along a line extending from the juncture of the Submerged Lands Act (SLA) limit at approximately 35° N. latitude to approximately 34° N. latitude 70° W. longitude thence south to approximately 34° N. latitude thence west to 72° W. longitude thence south to approximately

32° N. latitude thence west to approximately 74° W. longitude thence south to approximately 31° N. latitude thence west to approximately 76° W. longitude thence south to approximately 29° N. latitude thence west to 78° W. longitude thence south to 28°17'10" N. latitude thence west to the SLA limit thence in a northerly direction along the SLA limit to the point of origin. The planning area includes approximately 19,100 full and partial blocks covering approximately 107 million acres.

The total area open for comment at this time consists of 13,046 full and partial blocks (approximately 73.7 million acres) and is outlined on the attached map. This area is shown in detail on the Request for Interest Map available from the Regional Supervisor, Office of Leasing and Environment, Atlantic OCS Region, Minerals Management Service, 1951 Ridwell Drive, Suite 601, Vienna, Virginia 22180.

The following Official Protraction Diagrams are wholly or partially included in this request:

NI 18-4	NI 18-7	NI 18-11	NH 18-2
NI 18-5	NI 18-8	NI 18-12	NH 17-5
NI 18-6	NI 18-9	NI 17-2	NH 17-6
NI 19-4	NI 17-12	NI 17-3	NH 18-4
NI 17-9	NI 18-10	NI 18-1	NH 17-8

These diagrams may be purchased for \$2.00 each from the Regional Supervisor, at the above address (checks made payable to the U.S. Department of the Interior--MMS).

Previous Sale Related Activities

There have been four South Atlantic OCS lease sales, including one Re-Offering sale. The first was Sale 43, held on March 28, 1978, and the last was Sale 78, held on July 26, 1983. The U.S. Treasury has received almost \$125 million for the 75 leases issued as a result of these lease sales. Since the last lease sale, 55 leases have been relinquished or have expired.

The last proposed lease sale in this area, Sale 90, was cancelled on June 13, 1986, following a determination that there was little industry interest in a sale at that time.

There have been six exploratory wells and one COST well drilled in this area resulting in seven dry holes. All seven wells have been plugged and abandoned.

Instructions on Request for Interest

Information regarding leasing and exploring in the South Atlantic Planning Area may be provided by mail, telephone, or, alternatively, by informal meeting with the Regional Director or designated representative. General or detailed information may be submitted. We request that you provide information on the following:

(1) Are you interested in the area at this time?

(2) Would your level of interest in this area change if oil and gas prices increase?

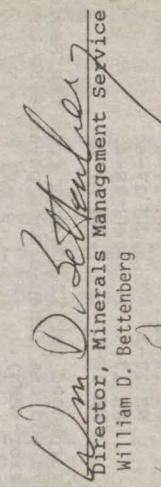
(3) What general or detailed information can you provide regarding whether we should proceed in this planning area with the OCS presale process; delay the presale process for 1 year or more; or defer the sale for consideration in a future 5-year schedule?

(4) Is your company spending money on any oil and gas activities in this area or are expenditures anticipated on activities such as geologic and geophysical work, etc.?

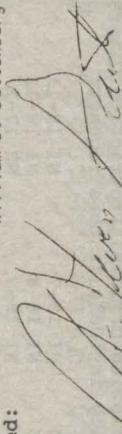
(5) What comments and suggestions can you provide on your choice of minimum bid levels, alternative bidding systems, and other procedures which may lead to enhanced understanding of the oil and gas resources of the South Atlantic OCS?

Indications of interest and comments should be received no later than 30 days following publication of this document in the Federal Register in envelopes labeled "Request for Interest on Proposed Lease Sale 108--South Atlantic."

Letters should be mailed or hand delivered to the Regional Supervisor at the address stated under "Description of Area."

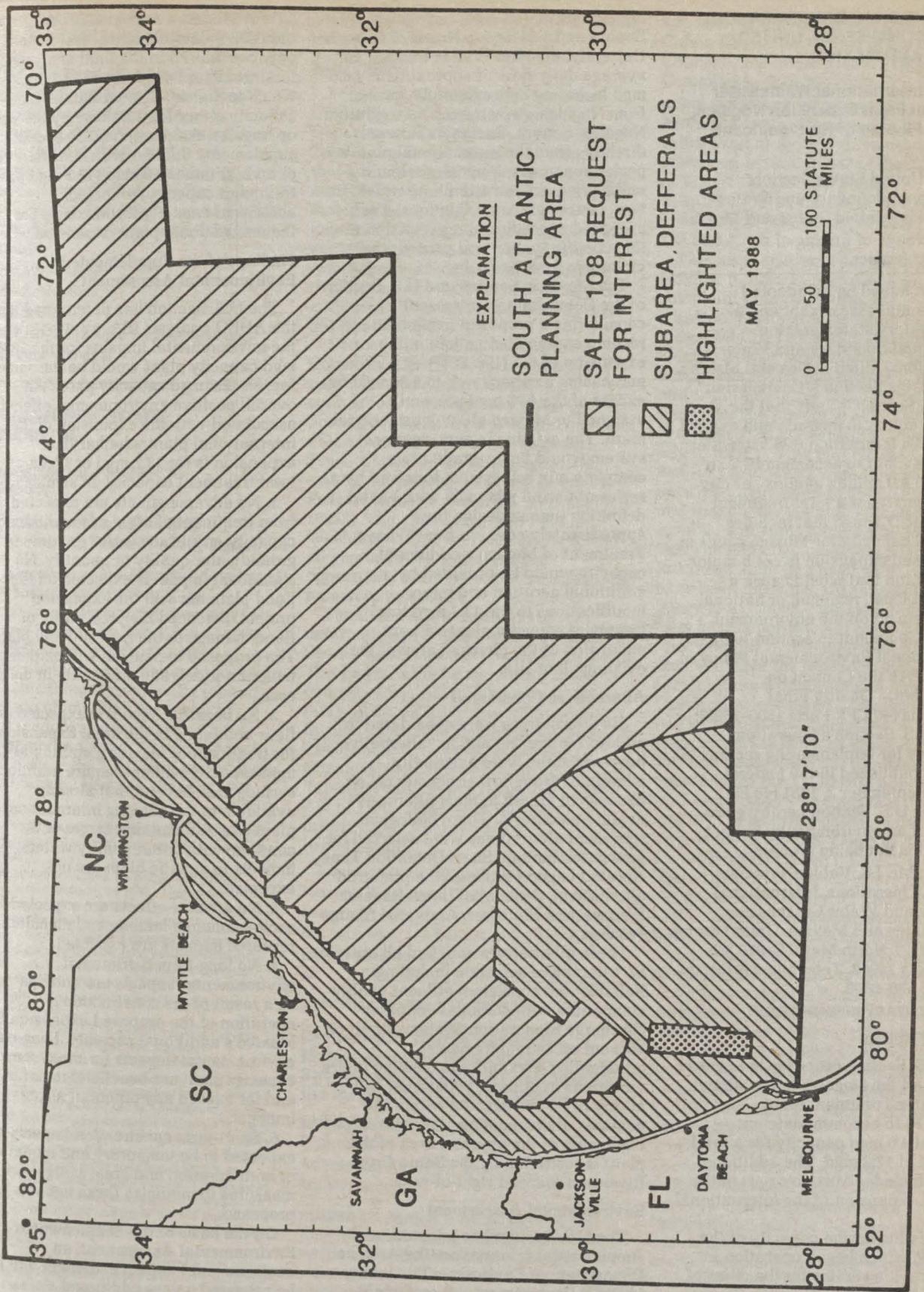

William D. Bettenberg
Director, Minerals Management Service

Approved:



Assistant Secretary - Land and Minerals Management
J. Steven Squires
MAY 12 1988

Date



INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Nogales International Wastewater Treatment Plant Expansion Nogales, Arizona; Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of finding of no significant impact.

SUMMARY: Based on an adopted environmental assessment and a supplementary statement, the International Boundary and Water Commission, United States and Mexico, United States Section ("Commission" and "U.S. Section") finds that the proposed action to upgrade and expand the Nogales International Wastewater Treatment Plant to accommodate an additional 4.0 million gallons per day (mgd) capacity for a total treatment capacity of 17.2 mgd that includes additional capacity for Mexico's part in the proposed expansion is not a major federal action that would cause a significant local, regional, or national adverse impact on the environment. Therefore, pursuant to section 102(2)(C) of the National Environmental Policy of 1969 (NEPA); the Council on Environmental Quality Final Regulations (40 CFR Parts 1500-1508); and the U.S. Section's Operational Procedures for Implementing section 102 of NEPA, published in the Federal Register September 2, 1981 (46 FR 44083); the U.S. Section hereby gives notice that an environmental impact statement is not being prepared.

ADDRESS: Mr. J.S. Valdez, Principal Engineer, Operations, International Boundary and Water Commission, United States and Mexico, United States Section, 4171 North Mess, C-310, El Paso, Texas 79902. Telephone: (915) 534-6693, FTS 570-6693.

SUPPLEMENTARY INFORMATION:

Proposed Action

The U.S. Section proposes to upgrade and expand the Nogales International Wastewater Treatment Plant (NIWWTP) to accommodate an additional 4.0 mgd capacity for a total treatment of 17.2 mgd. The additional capacity includes Mexico's part in the proposed expansion of the international plant.

The existing design capacity of the NIWWTP, which began operation in 1972 to provide service for the cities of Nogales, Arizona and Nogales, Sonora, Mexico, is 8.2 mgd with capacity

allocations of 4.95 mgd to Nogales, Sonora and 3.25 mgd to Nogales, Arizona. Currently, the NIWWTP is treating an average daily flow of approximately 8.6 mgd including approximately 3.5 mgd from Nogales, Arizona and 5.1 mgd from Nogales, Sonora. Excessive flows directly affect the international plant's performance, resulting in overloading and decreased detention time which, in turn, causes effluent violations. The proposed upgrading and expansion of the existing system will prevent these violations from occurring.

The Mexican Section and U.S. Section of the Commission are presently considering a proposed agreement recommending Mexico join in the expansion of the NIWWTP by purchasing a capacity up to 4.95 mgd in excess of the 4.95 mgd presently assigned to Mexico at the international plant. The existing lagoon treatment system would be up-graded to a complete mix cell system followed by a series of partial mix cells with a total detention time at design flow approximately equal to five (5) days. Treatment of Mexico's additional capacity would be provided by additional aeration and minor modifications to the 13.2 mgd total treatment capacity plant without expansion of the physical area of the existing plant site.

Alternatives Considered

Six alternatives were considered in addition to the "no action" alternative; however, three were eventually eliminated from further consideration because of failure to meet alternative evaluation criteria. Three biological treatment alternatives were selected for further evaluation: Short Detention Time Aerated Lagoon Process (the preferred alternative), Sequential Batch Reactor Process, and Bitower/Activated Sludge Process.

These alternatives satisfied all criteria for alternative selection including: Reliable and consistent effluent quality compatible with National Pollution Discharge Elimination System permit or effluent reuse requirements; adaptability/flexibility in meeting future variations in effluent standards; and ability to be constructed within the confines of the existing plant site since expansion of the physical area of the plant is restricted by the Santa Cruz River and railroad right-of-way.

Environmental Assessment

The U.S. Section has adopted, with supplemental information, the Arizona Department of Environmental Quality (ADEQ) Environmental Assessment (EA) for plant expansion of the

NIWWTP dated August 1987. Whereas, the ADEQ environmental assessment only considered in the final analysis a total treatment capacity of 13.2 mgd which includes 1.45 mgd future reserved capacity either for purchase by Mexico or Nogales, Arizona; the U.S. Section supplements that EA with consideration of an additional 4.0 mgd (17.2 mgd total treatment capacity) to include additional capacity for Mexico's part in the international plant expansion.

Findings of the Supplemented Environmental Assessment

The U.S. Section has determined that the ADEQ analysis (EA, pp. 11-13) of the environmental impacts for the 13.2 mgd capacity plant would be the same for the 17.2 mgd capacity plant. An overall positive environmental effect is associated with the expansion of the international plant whether that expansion is for 13.2 mgd or 17.2 mgd total treatment capacity. In summary:

- No adverse effects are expected from treatment of Mexico's additional capacity on surface water or groundwater quality or quantity. No significant impact is expected on the flood plain nor will the expansion project increased the probability of flood damage to the international plant. The proposed expansion will neither benefit nor degrade air quality in the area.

- No negative impact is expected on flora and fauna in the area. Expansion for treatment of Mexico's additional 4.95 mgd capacity will not require additional surface area beyond that already available at the existing international plant site. Effluent discharges will continue with better quality waters, and impacts to aquatic biota are not expected.

- No adverse effects are expected for socio-economic factors, and no cultural resource impacts are expected.

- No long-term detrimental environmental impacts are anticipated as a result of the construction or operation of the proposed expansion for Mexico's additional capacity. Long-term environmental impacts for the 17.2 mgd capacity plant are beneficial in nature and far exceed any potential negative impacts.

- Short-term construction impacts are expected to be temporary and minimal in both duration and area. Mitigation measures to minimize these impacts are proposed.

On the basis of the Supplemented Environmental Assessment, an environmental impact statement will not be prepared unless additional information which may affect this

decision is brought to our attention within thirty (30) days of the date of this Notice.

The Draft Finding of No Significant Impact and Supplemental Statement have been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental documents are available to fill single copy requests at the above address.

Date: May 6, 1988.

Suzette Zaboroski,
Staff Counsel.

[FR Doc. 88-11111 Filed 5-17-88; 8:45 am]

BILLING CODE 4710-03-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-390
(Preliminary)]

Digital Readout Systems and Subassemblies Thereof From Japan

On the basis of the record¹ developed in the subject investigation, the Commission determines² pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1672b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of digital readout systems and subassemblies thereof,³ provided for in item 710.80 of the Tariff Schedules of the United States,⁴ that are alleged to be

sold in the United States at less than fair value (LTFV).

Background

On March 28, 1988, a petition was filed with the Commission and the Department of Commerce by Anilam Electronics Corp., Miami, FL, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of digital readout systems and subassemblies thereof from Japan. Accordingly, effective March 28, 1988, the Commission instituted preliminary antidumping investigation No. 731-TA-390 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 4, 1988 (53 FR 10953). The conference was held in Washington, DC, on April 20, 1988, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 12, 1988. The views of the Commissioners are contained in USITC Publication 2081 (May 1988), entitled "Digital Readout Systems and Subassemblies Thereof from Japan: Determination of the Commission in Investigation No. 731-TQ-390 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 13, 1988.

Kenneth R. Mason,
Secretary.

[FR Doc. 88-11157 Filed 5-17-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-228]

Certain Fans With Brushless DC Motors; Request for Written Submissions on the Issues of Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Request for written submissions.

SUMMARY: Notice is hereby given that the Commission has decided to solicit written submissions on the issues of remedy, the public interest, and bonding prior to final disposition of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:
Calvin Cobb, Esq., Office of the General Counsel, U.S. International Trade Commission, 202-252-1103.

SUPPLEMENTARY INFORMATION:
Authority for the Commission's solicitation of written submissions is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.58(a) of the Commission's rules of practice and procedure (19 CFR 210.58(a)).

This investigation was instituted on October 9, 1985, in response to a complaint filed by Rotron, Inc. ("Rotron") against Matsushita Electric Industrial Co., Ltd. and Matsushita Electric Corp. ("respondents"), based on allegations of infringement of claims 1-4 and 6-12 of Rotron's U.S. Letters Patent 4,494,028. The presiding administrative law judge ("ALJ") issued the final ID on July 9, 1986, finding that claims 1, 6, and 8 of Rotron's patent were invalid as anticipated pursuant to 35 U.S.C. 102(b), and that claims 1-4 and 6-12 were invalid as obvious pursuant to 35 U.S.C. 103. The ALJ also found that (i) if Rotron's patent had been valid, it would have been infringed, (ii) substantial injury to a domestic industry resulted from past importation of respondents' fans, and (iii) future importation of such fans will have the tendency to injure substantially a domestic industry. The Commission reviewed and affirmed the ALJ's findings that claims 2-4, 7, 9-12 were invalid as obvious under 35 U.S.C. 103, and determined not to review the remainder of the ID. Rotron appealed the Commission's findings that claims 3 and 9-12 of Rotron's patent were invalid as obvious to the U.S. Court of Appeals for the Federal Circuit ("CAFC"). In *Rotron, Inc. v. U.S.I.T.C., et al.*, Appeal No. 87-1099 (February 18, 1988), the CAFC reversed the Commission's finding of patent invalidity respecting claims 3 and 9-12, and found a violation of section 337 as a matter of law. In light of the Commission's findings of patent infringement and injury, the CAFC, by mandate dated April 14, 1988, remanded the investigation to the Commission for appropriate further proceedings. The Commission must now consider the issues of remedy, the public interest, and bonding.

In considering remedy, the Commission may issue (i) an order which could result in the exclusion of the subject articles from entry into the United States and/or (ii) cease and desist order(s) which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. The Commission is interested in

¹ The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

² Commissioner Eckes, Lodwick, and Rohr determine that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of digital readout systems and subassemblies thereof, provided for in item 710.80 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value.

³ Digital readout (DRO) systems subject to this investigation provide linear or rotational displacement information for high precision industrial equipment such as metalworking machine tools. The scope of the investigation covers DRO systems, whether assembled or unassembled. An unassembled DRO system would include a console and a transducer (glass scale, magnetic, and rotary encoder but not laser) destined for use in a DRO system and imported into the United States for assembly and sale as a DRO system. The scope of investigation also covers subassemblies and parts thereof. Subassemblies and parts thereof include consoles and parts of consoles destined for use in DRO systems.

⁴ DRO systems and subassemblies thereof are currently also provided for in subheading 9031.80.00 of the Harmonized Tariff Schedule of the United States.

receiving written submissions which address the form of remedy, if any, that should be ordered.

The Commission must consider the effect of any order on the public interest by examining the impact exclusion and/or cease and desist order(s) will have on (i) the public health and welfare, (ii) competitive conditions in the United States economy, (iii) the production in the United States of articles that are like or directly competitive with those articles subject to investigation, and (iv) United States consumers. The Commission is therefore interested in receiving written submissions which address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days in which to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond which should be imposed.

Written Submissions

The parties to the investigation, interested Government agencies, and the public are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed exclusion and/or cease and desist order(s) for the Commission's consideration.

Initial written submissions by the parties must be received in the Office of the Secretary to the Commission during official business hours (8:45 a.m. to 5:15 p.m.) no later than the date which is 14 days after the date of publication of this notice in the **Federal Register**. Submissions from all other sources and the parties' reply submissions must be received in the Office of the Secretary during official business hours no later than the date which is 21 days after the date of publication of this notice in the **Federal Register**. Persons filing written submissions must submit an original and 14 true copies of each such submission on or before the deadlines prescribed above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the Commission. All such requests must be directed to the Secretary to the Commission and must

include a full discussion of the reasons supporting the requested treatment. Properly marked documents containing information granted confidential treatment by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours on Monday through Friday, at the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone: 202-252-1000.

Hearing impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal at 202-252-1810.

By order of the Commission.

Issued: May 12, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88-11156 Filed 5-17-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-278]

Certain Programmable Digital Clock Thermostats; Commission Decision Not To Review an Initial Determination Terminating One Respondent on the Basis of a Consent Order; Issuance of Consent Order; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of respondent Computime Limited on the basis of a consent order.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 10) issued by the presiding administrative law judge (ALJ) terminating respondent Computime Limited from the above-captioned investigation on the basis of a consent order. As Computime Limited was the only remaining respondent in the investigation, its termination terminated the investigation.

FOR FURTHER INFORMATION CONTACT: George W. Thompson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1090.

SUPPLEMENTARY INFORMATION: On April 12, 1988, the presiding ALJ issued an ID

terminating the investigation with respect to Computime Limited. The ID granted the joint motion of complainant Emerson Electric Co. and Computime Limited to terminate the investigation with respect to Computime on the basis of a consent order. No petitions for review of the ID or government agency or public comments were received.

Termination of the investigation as to respondent Computime Limited will further the public interest by conserving Commission resources as well as those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By order of the Commission.

Issued: May 9, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88-11155 Filed 5-17-88; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-148X)]

Illinois Central Railroad Co.—Exemption—Discontinuance of Trackage Rights Between Haleyville and Birmingham, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903 *et seq.*, the discontinuance by Illinois Central Railroad Company of 81 miles of trackage rights between Haleyville and Birmingham, AL subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 17, 1988. Formal expressions of intent to file

an offer¹ of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 31, 1988.

Petitions to stay must be filed by May 31, 1988, and petitions for reconsideration must be filed by June 7, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB-43 (Sub-No. 148X) to:
 (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
 (2) Petitioner's representative: William C. Sippel, Two Illinois Center, 233 North Michigan Avenue, Suite 2306, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT:
 Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721.]

SUPPLEMENTARY INFORMATION: This discontinuance exemption is directly related to IC's sale to Southern Railway Company of 199 miles of railroad and 154 miles of trackage rights between Centralia, IL and Haleyville, AL simultaneously approved by the Commission in Finance Docket No. 31088. Additional information is contained in the Commission's decision under Finance Docket No. 31088. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (D.C. Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: May 9, 1988.

By the Commission, Chairman Gradyson, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboleo.

Noreta R. McGee,
 Secretary.

[FR Doc. 88-11099 Filed 5-17-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration
 [Docket No. M-88-60-C]

Camp Fork Fuel Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Camp Fork Fuel Co., Inc. Box C, Elkhorn City, Kentucky 41532 has filed a petition to modify the application of 30 CFR 75.206 (conventional roof support)

to its No. 4 Mine (I.D. No. 15-08333) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the width of openings be limited to 20 feet when only using conventional roof support.

2. Petitioner states that the use of a 20-foot width in the entries would result in a diminution of safety for the miners affected because roof supports are presently being used and in order to comply it would be necessary to eliminate all roof supports. A 20-foot width is too narrow to operate the equipment and does not allow enough space for the equipment to make a 90 degree turn.

3. Petitioner further states that the mine's roof is solid limestone and does not need roof bolting.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 827, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 17, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 10, 1988.

[FR Doc. 88-11057 Filed 5-17-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of

the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that: (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303(a).

DATE: Requests for copies must be received in writing on or before July 5, 1988. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the

¹ See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C. 2d 184 (1987), and final rules published in the FR on December 22, 1987 [52 FR 48440-48-446].

records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Defense, Defense Logistics Agency (N1-361-88-1). Facilitative records relating to DLA productivity program, personnel matters, engineering support, and other matters.
2. Environmental Protection Agency, Federal Water Pollution Control Board (N1-412-88-1). Reading file, questionnaires, mailing list and other transitory records relating to the work of the New England New York Inter-Agency Committee.
3. General Services Administration, Office of Administration (N1-269-88-1). Reduction in retention period for selected personnel security case files.
4. Department of Justice, Criminal Division (N1-60-88-6). Records pertaining to tax return information requests.
5. Department of Justice, Bureau of Justice Statistics (N1-423-88-1). Input forms relating to Offender-Based State Correctional Information System, 1965-80 (electronic data base) is designated for permanent retention.
6. Department of State, Bureau of Personnel (N1-59-88-26). Personnel Models and Inventories System.
7. Department of the Treasury, Comptroller of the Currency (N1-101-88-2). Domestic branch and customer-bank communication terminal files.

Dated: May 9, 1988.

Claudine J. Weiher,

Deputy Archivist of the United States.

[FR Doc. 88-11112 Filed 5-17-88; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Boiling Water Reactors; Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactors will hold a meeting on June 1, 1988, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 1, 1988—8:30 a.m. until the conclusion of business.

The Subcommittee will begin its review of the GE ABWR. This meeting

will concentrate on the first review module consisting of SAR Chapters 4, 5, 6, and 15-1.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634-1413) between 7:30 p.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 10, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-11139 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published April 18, 1988 (53 FR 12735). Those meetings which are

definitely scheduled have had, or will have, an individual notice published in the *Federal Register* approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk(*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the June 1988 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Regional Programs, May 24, 1988, Atlanta, GA. The Subcommittee will review the activities under the control of the NRC Region II Office.

Improved LWRs, May 25, 1988—Postponed to June 8, 1988.

Metal Components, May 26, 1988, Washington, DC. The Subcommittee will discuss the quality of fasteners in nuclear power plants, BWR reactor pressure vessel in-service inspections, status of the piping erosion-corrosion program and other matters.

Occupational and Environmental Protection Systems, May 31, 1988, Washington, DC. The Subcommittee will review changes to 10 CFR Part 20, "Standards for Protection Against Radiation."

Advanced Boiling Water Reactors, June 1, 1988, Washington, DC. The Subcommittee will begin its review of the GE ABWR. This meeting will concentrate on the first review module consisting of SAR Chapters 4, 5, 6, and 15-1.

Improved LWRs, June 8, 1988, Washington, DC. The Subcommittee will discuss Chapters 3, 4, and 5 of the EPRI ALWR Requirements document.

Reliability Assurance, June 14, 1988, Washington, DC. The Subcommittee will be briefed on the final outcome of the Equipment Qualification-Risk Scoping Study. An update on the implementation of the resolution of USI A-46, "Seismic Qualification of Equipment in Operating Nuclear Power Plants," is also planned.

Maintenance Practices and Procedures, June 15, 1988, Washington, DC. The Subcommittee will be briefed

by RES on the current status of the Maintenance Rule.

Thermal Hydraulic Phenomena, June 21, 1988, Washington, DC. The Subcommittee will review the status of the MIST Phase III and IV Programs and the proposed OTSG Follow-on Program.

Advanced Reactor Designs, June 22, 1988, Washington, DC. The Subcommittee will review the draft SER of the Modular HTGR conceptual design.

Decay Heat Removal Systems, June 23, 1988 (tentative), Washington, DC. The Subcommittee will continue its review of the NRC Staff's resolution position of USI A-45.

*Waste Management**, June 27-29, 1988, Bethesda, MD. The Subcommittee will review the following pertinent high-level nuclear waste management topics: (1) DOE's proposal to petition for rulemaking on the Design Basis Accident Dose Limit for a geologic repository, (2) a report on the meeting on Alternative Conceptual Models of the Yucca Mt. Site held in Las Vegas, NV the week of April 11-15, 1988, (3) a report on the Performance Assessment Workshop held at Sandia National Laboratories, and (4) a briefing on the licensing procedures used to authorize, at reactor, LLW processing and spent fuel compaction and dry storage operations.

TVA Organizational Issues, July 13, 1988, Bethesda, MD. The Subcommittee will review the lessons learned from the NRC Staff's review of the shutdown of TVA's nuclear power plants.

*Waste Management**, July 21-22, 1988, Bethesda, MD.

Maintenance Practices and Procedures, September 13, 1988, Bethesda, MD. The Subcommittee will discuss and review the maintenance rule and associated NUREG.

*Waste Management**, September 15-16, 1988, Bethesda, MD.

Advanced Pressurized Water Reactors, Date to be determined (June/July), Washington, DC. The Subcommittee will review the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

Safety Philosophy, Technology and Criteria, Date to be determined (June/July), Washington, DC. The Subcommittee will review the status of NUREG-1251 (Implications of Chernobyl) and the NRC Staff's program (at BNL) to address the implications of Chernobyl in regard to severe reactivity transients.

*Expected to be established as the Advisory Committee on Nuclear Waste in the near future.

Decay Heat Removal Systems, Date to be determined (June/July).

Washington, DC. The Subcommittee will review the proposed resolutions of Generic Issue 23, "RCP Seal Failures," and Generic Issue 99, "Loss of RHR Capability in PWRs."

Occupational and Environmental Protection Systems, Date to be determined (June/July), Washington, DC. The Subcommittee will review: (1) "Hot particle" problem, (2) monitoring the quality and quantity of airborne radionuclides in/out of containment following an accident, (3) the emergency planning rule, (4) the control room habitability report by ANL, and (5) other related matters.

Advanced Pressurized Water Reactors, Date to be determined (July), Washington, DC. The Subcommittee will review the draft SER in regard to the reactor, reactor coolant system, and regulatory conformance for the WAPWR RESAR SP/90 design.

Advanced Pressurized Water Reactors, Date to be determined (July/August), Washington, DC. The Subcommittee will discuss the comparison of WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

Advanced Reactor Designs, Date to be determined (July/August), Washington, DC. The Subcommittee will review the draft SERs for the liquid metal reactors (LMRs).

General Electric Reactor Plants, Date to be determined (August), Plymouth, MA. The Subcommittee will review the proposed restart of the Pilgrim plant.

Containment Requirements, Date to be determined (August/September), Washington, DC. The Subcommittee will review the NRC Staff's document on interim recommendations for containment performance and improvements (BWR Mark I only).

Decay Heat Removal Systems, Date to be determined, Washington, DC. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Systematic Assessment of Experience, Date and location to be determined. The Subcommittee will review the Diagnostic Evaluation Program and other related licensee performance review efforts by the NRC Staff.

Thermal Hydraulic Phenomena, Date to be determined, Washington, DC. The Subcommittee will discuss the status of Industry best-estimate ECCS Model submittals for use with the revised ECCS Rule.

Auxiliary Systems, Date to be determined, Washington, DC. The Subcommittee will discuss the: (1) Criteria being used by utilities to design

Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the Staff to review the Chilled Water Systems design.

ACRS Full Committee Meeting

June 2-4, 1988—Items are tentatively scheduled.

**A. Thermal Hydraulic Research (Open)*—Discuss NRC programs to provide research data applicable to thermal hydraulic phenomena.

**B. Advanced Reactors (Open)*—Review regulatory requirements for key design features of advanced liquid-metal cooled and high-temperature gas-cooled nuclear power plants.

**C. Babcock & Wilcox Nuclear Power Plants (Open)*—Review safety reassessment of B&W nuclear power plants.

**D. Important Safety Related Issues (Open)*—Discuss hierarchical structure of important safety related issues identified by the ACRS members.

**E. ACRS Practices and Procedures (Open)*—Discuss proposed changes in ACRS Bylaw regarding activities of members (e.g., participation in meetings not sponsored by the ACRS) and realignment of ACRS subcommittee assignments.

**F. Generic Issues (Open)*—Discuss the priority rankings proposed by the NRC Staff to a group of generic issues.

**G. ECCS Evaluation Model (Closed)*—Review proposed Westinghouse Electric Corporation's revised ECCS evaluation model for 2-Loop Upper-Plenum Injection plants.

**H. Emergency Planning (Open)*—Briefing and discussion regarding proposed NRC rule regarding emergency preparedness for fuel cycle and other radioactive material licensees.

**I. Quality of Nuclear Power Plant Fasteners (Open)*—Briefing regarding NRC Staff effort to evaluate the quality of bolts and other fasteners used in nuclear power plants.

**J. Systems Interactions (tentative) (Open)*—Briefing regarding the proposed resolution of USI A-17, "Systems Interactions in Nuclear Power Plants."

**K. 10 CFR Part 20 (Open)*—Review proposed revisions to 10 CFR Part 20, "Standards for Protection Against Radiation."

**L. ACRS Subcommittee Activities (Open)*—Reports and discussion of the status of assigned subcommittee activities, including NRC Regional activities, the advanced boiling water reactor, EPRI design requirements for nuclear power plants, inspection of BWR pressure vessel, and international

meeting on nuclear power plants operation and safety.

*M Future Activities (Open)—Discuss proposed items for consideration by the ACRS and anticipated subcommittee activities.

N. Appointment of New ACRS Members (Closed)—Discuss qualifications of candidates proposed for consideration as members for appointment to the ACRS.

July 14–16, 1988—Agenda to be announced.

August 11–13, 1988—Agenda to be announced.

Dated: May 12, 1988

John C. Hoyle,
Advisory Committee Management Officer.
[FRC Doc. 88-11140 Filed 5-17-88; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Improved LWRs; Date Change

The ACRS Subcommittee meeting on Improved LWRs scheduled to be held on May 25, 1988, the notice of which was published in the *Federal Register* on Wednesday, May 11, 1988 (53 FR 16800), has been rescheduled to *Wednesday, June 8, 1988*, Room 1046, 1717 H Street, NW., Washington, DC. All other items pertaining to this meeting remain the same as in the previous notice.

Dated: May 12, 1988.

Richard Savio,
Chief, Branch No. 1.
[FRC Doc. 88-11143 Filed 5-17-88; 8:45 am]
BILLING CODE 7590-01-M

Biweekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 23, 1988 through May 6, 1988. The last biweekly notice was published on May 4, 1988 (53 FR 15905).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a

hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: July 10, 1987

Description of amendment request: The July 10, 1987 BG&E application proposed adding Technical Specification (TS) operability and reporting requirements for the reactor vessel level monitoring system (RVLMS) to the Units 1 and 2 TS 3/4.3.3.6, "Post-Accident Instrumentation," and TS 6.9.2, "Special Reports."

Basis for proposed no significant hazards consideration determination: This change proposed for Units 1 and 2 to modify (1) TS 3/4.3.3.6, "Post-Accident Instrumentation," by changing the referenced TS Tables 3.3-10, "Post-Accident Monitoring Instrumentation Surveillance Requirements," and 4.3-10, "Post-Accident Monitoring Instrumentation Surveillance Requirements," and (2) TS 6.9.2, "Special Reports," to incorporate operability and reporting requirements for RVLMS. The proposed TS correspond, with two exceptions, to the generic Combustion Engineering (CE) RVLMS TS that were found acceptable by the NRC staff in the October 28, 1986 NRC letter from D. M. Crutchfield to R. W. Wells of the CE Owners' Group. The exceptions proposed by BG&E, concerning actions required when no RVLMS channels are operable, were:

1. to modify Action 35.1 of TS Table 3.3-10 to initiate an alternative method of monitoring for core and reactor coolant system voiding rather than for monitoring reactor vessel inventory, and

2. to change the generic requirement that the RVLMS system be restored to operability at the next scheduled refueling outage (Table 3.3-10 requires a

minimum of 2 RVLMS channels to be operable) to the proposed requirement that at least one RVLMS channel be restored to operability at the next scheduled refueling outage.

On March 6, 1986, the NRC published guidance in the *Federal Register* (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration.

This change is consistent with one of the different examples provided: "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, e.g., a more stringent surveillance requirement." This proposed change would impose surveillance requirements where none previously existed. Consequently, the NRC staff proposes to determine that this proposed change which adds RVLMS surveillance and reporting requirements to the TS, involves no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra, Director

Carolina Power & Light Company, North Carolina Eastern Municipal Power Agency, Docket No. 50-400, Shearon Harris Nuclear Power Plant (SHNPP), Unit 1, Wake and Chatham Counties, North Carolina

Dates of amendment request: February 1, February 8, and April 13, 1988

Description of amendment request: The proposed amendment contains five (5) groups of Technical Specification changes that are required to support Shearon Harris Cycle 2 operation. These groups are entitled: (1) D-Bank Reconfiguration; (2) F_q^T Increase From 2.28 to 2.32 - RAOC/Base Load Operation and F_q Surveillance; (3) Increased F-Delta-H Multiplier; (4) boron dilution/sliding shutdown margin; and (5) Miscellaneous. In addition, a Bases change involving Rod Bow Penalty has been made.

Group 1 relates to those changes arising from the licensee's change from a four rod Control Bank-D currently used, to a more standard eight rod Control Bank-D configuration. The proposed amendment would revise TS Figure 3.1-1, Rod Group Insertion Limits Versus Thermal Power Three Loop Operation. In addition, TS Figure 3.1-1 has been

administratively renumbered to Figure 3.1-2 in conjunction with a new Figure 3.1-1 proposed in Group 4 below.

Group 2 changes involve: (1) increasing the Heat Flux Hot Channel Factor, F_Q^T , in Technical Specification 3.2.2; (2) revising the Local Axial Penalty Function, $K(z)$, in Technical Specification Figure 3.2-2; (3) replacing the existing Constant Axial Offset Control (CAOC) procedures of Technical Specification Section 3/4.2.1 with a combined Relaxed Axial Offset Control (RAOC)/Base Load operating strategy; (4) replacing the existing F_{xy} surveillance of Technical Specification 4.2.2.1 with a F_Q^T surveillance; (5) revising $f(\Delta-I)$ reset function in Technical Specification Table 2.2-1; and (6) revising Technical Specification 6.9.1.6, which delineates the content and schedule requirements of the Radial Peaking Factor Limit Report.

Group 3 would revise the equation used to determine $F\text{-}\Delta\text{-}H$, the Nuclear Enthalpy Rise Hot Channel Factor, presented in Technical Specification 3.2.3.b. The existing 0.2 multiplier has been increased to 0.3. This multiplier acts to increase the allowable $F\text{-}\Delta\text{-}H$ at reduced power levels. In addition, the core limit curves presented in Technical Specification Figure 2.1-1 have been revised. These curves, which are based on $F\text{-}\Delta\text{-}H$, show the loci of points of thermal power, Reactor Coolant System pressure and average temperature for which the minimum Departure from Nucleate Boiling Ratio (DNBR) is no less than 1.30.

Group 4 modifies the shutdown margin requirements of Technical Specification Section 3/4.1.1. The current Technical Specifications require a fixed value for shutdown margin for a given mode of operation. The proposed amendment maintains the current fixed shutdown margin requirement for Modes 1, 2, and 6 while implementing a variable shutdown margin requirement as a function of reactor coolant system (RCS) boron concentration for Modes 3, 4 and 5. Due to the higher shutdown margin required at the beginning of SHNPP Cycle 2 for Mode 5, the minimum fluid volume requirements for the boric acid tank and the refueling water storage tank specified in Technical Specifications 3.1.2.5 and 3.1.2.6 have been increased to provide sufficient inventory to go from Mode 1 to Mode 5. The addition of a new figure in the Technical Specifications necessitates administrative changes affecting the designation of the Rod Group Insertion Limits versus Thermal Power Figure and associated references, the details are

discussed in the "D-Bank reconfiguration - Control Rod Insertion Limits" Technical Specification change.

Group 5 would revise: (1) the Technical Specification Table 4.3-1 Surveillance Requirements for the Excore Power Range Monitors; and (2) the description of Fuel Assemblies located in Technical Specification 5.3.1. Currently, Technical Specification Table 4.3-1 requires that a single-point comparison of INCORE/EXCORE Axial Flux Difference (AFD) be performed monthly and an INCORE/EXCORE calibration be performed quarterly. The proposed change to Table 4.3-1 revises these surveillances to once per 31 Effective Full Power Days (EFPD) and once per 92 EFPD, respectively.

The proposed change to the fuel assembly description of Technical Specification 5.3.1 allows for repair of fuel assemblies by substitution of filler rods or vacancies for damaged fuel rods.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether or not a no significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined:

Group 1

The change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. Currently, Control Bank D consists of four Rod Cluster Control Assemblies (RCCAs) located near the core periphery. During the upcoming SHNPP refueling outage, the four RCCAs located near the core center which currently comprise Shutdown Bank D will be combined into Control Bank D and Shutdown Bank D will no longer exist. The limits shown on the Rod Group Insertion Limits Versus Thermal Power figure have been revised, using NRC approved methodology from WCAP 9273-A, to establish new limits

which ensure that with the eight rod Control Bank D configuration: (1) power distributions are maintained within current limits; (2) the minimum shutdown margin for power operation (Modes 1 and 2) remains the same as that for SHNPP Cycle 1 operation; and (3) the potential effects of rod misalignment, including rod ejections and rod withdrawal, on associated accident analyses are limited as discussed herein.

The addition of the four Shutdown Bank D rods to Control Bank D returns SHNPP to an eight rod configuration as was approved in the SHNPP PSAR. The eight rod Control Bank D is the generic configuration for Westinghouse 3-loop 17 x 17 design plants. The Commission has previously approved this eight rod configuration at other facilities such as V. C. Summer, J. M. Farley Units 1 and 2, and Beaver Valley Units 1 and 2. This generic configuration provides for a more uniform control of the core radial power distribution as control rods are inserted. Since the total integral worth of the revised rod insertion limits is comparable to Cycle 1, the worth of any single inserted RCCA at power is reduced because the worth is distributed over twice the number of RCCAs. The probability and consequences of previously evaluated rod worth accidents at SHNPP will now be comparable to that at other Commission accepted eight rod Control Bank D plants.

The addition of four rods to Control Bank D decreases the probability of a rod ejection event at hot zero power because fewer rods are allowed in the core by the proposed rod insertion limits at zero percent power than are allowed by the existing Technical Specification. At full power the probability of a rod ejection event is increased. Rod ejection is classified as an ANS Condition IV event, that is, an event which is not likely to occur over the lifetime of the plant. This classification is applied to rod ejection at other operating facilities with an eight rod Control Bank D configuration. Since the eight rod Control Bank D configuration is a generic design for 3-loop 17 x 17 Westinghouse plants, the Commission has previously licensed other facilities with this same configuration, and the rod ejection event remains an ANS Condition IV event. CP&L has determined that the increase in the probability of a rod ejection event at full power is not significant.

The Control Bank D modification does not affect the scram functions of the affected RCCAs. The acceptable scram times for these rods are not different.

from those currently established. The current assumptions used in the SHNPP FSAR Chapter 15 non-LOCA analyses for shutdown margin, trip reactivity, power distribution limits, ejected and dropped rod worths, post-ejected rod peaking factors, integral rod worths, and differential rod worths were compared with the expected Cycle 2 values for these parameters. It was confirmed that the Cycle 2 values are bounded by those assumed in the current analyses.

Therefore, the consequences presented in the SHNPP FSAR for non-LOCA events remain bounding given the new rod insertion limits.

No credit is taken for control rods in the mitigation of a large break LOCA in terms of peak clad temperature or long term cooling. As such, the proposed rod insertion limits have no impact on this analysis. The small break LOCA analysis only models rod insertion in terms of a reactor trip and insertion of all banks. Since the revised rod insertion limits have no impact on the insertion time or reactivity insertion, the proposed amendment does not affect the consequences of a small break LOCA. Based on the above, CP&L has determined that the proposed changes do not increase the consequences of a previously evaluated accident.

The revision to the designation for the Rod Group Insertion Limits Versus Thermal Power figure and associated references is administrative in nature and, as such, can not increase the probability or consequences of an accident previously evaluated.

2. As stated in Item 1, revising the limits in the Rod Group Insertion Limits Versus Thermal Power figure does not alter the method in which any system performs its intended safety function. The eight rod Control Bank D configuration provides for a more uniform control of the core radial power distribution as control rods are inserted. The total integral worth of the revised rod insertion limits is comparable to Cycle 1. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident, including reactivity insertion or withdrawal accidents, from any accident previously evaluated. It should be noted that the eight rod Control Bank D configuration is identical to generic Westinghouse 3-loop 17 x 17 plant designs and has previously been approved for use at V. C. Summer, J. M. Farley, Units 1 and 2, and Beaver Valley, Units 1 and 2. The NRC approved safety analyses for these plants do not address any new or different accidents from those currently analyzed for SHNPP.

The revision to the designation for the Rod Group Insertion Limits Versus

Thermal Power figure and associated references is administrative in nature and, as such, can not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety. Currently, Control Bank D consists of four Rod Cluster Control Assemblies (RCCAs) located near the core periphery. During the upcoming SHNPP refueling outage, the four RCCAs located near the core center which currently comprise Shutdown Bank D will be combined into Control Bank D and Shutdown Bank D will no longer exist. The limits shown on the Rod Group Insertion Limits Versus Thermal Power figure have been revised, using NRC approved methodology from WCAP 9273-A, to establish new limits which ensure that with the eight rod Control Bank D configuration: (1) power distributions are maintained within current limits; (2) the minimum shutdown margin for power operation (Modes 1 and 2) remains the same as that for SHNPP Cycle 1 operation; and (3) the potential effects of rod misalignment, including rod ejections and rod withdrawal, on associated accident analyses are limited as discussed herein.

The addition of the four Shutdown Bank D rods to Control Bank D returns SHNPP to an eight rod configuration as was approved in the SHNPP PSAR. The eight rod Control Bank D is the generic configuration for Westinghouse 3-loop 17 x 17 design plants. The Commission has previously approved this eight rod configuration at other facilities such as V. C. Summer, J. M. Farley Units 1 and 2, and Beaver Valley Units 1 and 2. This generic configuration provides for a more uniform control of the core radial power distribution as control rods are inserted. Since the total integral worth of the revised rod insertion limits is comparable to Cycle 1, the worth of any single inserted RCCA at power is reduced because the worth is distributed over twice the number of RCCAs. The margin of safety at SHNPP will now be comparable to that at other Commission accepted eight rod Control Bank D plants.

The Control Bank D modification does not affect the scram functions of the affected RCCAs. The acceptable scram times for these rods are not different from those currently established. The current assumptions used in the SHNPP FSAR Chapter 15 non-LOCA analyses for shutdown margin, trip reactivity, power distribution limits, ejected and dropped rod post-ejected rod peaking factors, integral rod worths, and

differential rod worths were compared with the expected Cycle 2 values for these parameters. It was confirmed that the Cycle 2 values are bounded by those assumed in the current analyses. Therefore, the conclusions presented in the SHNPP FSAR for non-LOCA events remain bounding given the new rod insertion limits.

No credit is taken for control rods in the mitigation of a large break LOCA in terms of peak clad temperature or long term cooling. As such, the proposed rod insertion limits have no impact on this analysis. The small break LOCA analysis only models rod insertion in terms of a reactor trip and insertion of all banks. Since the revised rod insertion limits have no impact on the insertion time or reactivity insertion, the proposed amendment does not alter the current analysis for a small break LOCA.

Based on the above reasoning, the Company has determined that there is no decrease in the margin of safety as a result of the proposed revision to Control Bank D configuration.

The revision to the designation for the Rod Group Insertion Limits Versus Thermal Power figure and associated references is administrative in nature and, as such, can not reduce the margin of safety.

Group 2

The changes do not involve a significant hazards consideration for the following reasons:

1. The proposed increase in the F_{Q^T} limit and the associated change in the K(z) Local Axial Penalty function do not increase the probability of an accident previously evaluated because they do not affect any systems or equipment which are involved in the initiation or mitigation of any previously analyzed accident and, as such, can not increase the probability of any accident previously evaluated. Operation with the proposed increase in the F_{Q^T} limit and the associated change in the K(z) Local Axial Penalty function does not result in an increase in the radiological consequences resulting from non-LOCA, overpower transients or small break LOCA events. The current SHNPP FSAR accident analyses for non-LOCA, overpower transients and small break LOCA assume an F_{Q^T} limit of 2.32 or greater which bounds the proposed value of 2.32. The large break LOCA event has been reanalyzed by Westinghouse. This analysis was performed using the NRC approved BASH computer code. The BASH computer code provides a more realistic thermal/hydraulic simulation of the reactor core and the Reactor Coolant

System during the reflood phase of a LOCA thereby allowing the increase, F_Q^T limits. The NRC generically approved the Westinghouse BASH analysis methods as WCAP-10266, Revision 2. The results of this reanalysis show a decrease in the peak clad temperature, a slight increase in the maximum local metal-water reaction, and a comparable total core metal-water reaction. The increase in the maximum local metal water reaction is from 5.69% to 6.03%, which is insignificant when compared to the acceptance criteria of 17% specified by Appendix K of 10 CFR 46. Based on the above reasoning, CP&L has determined that, the consequences of previously evaluated accidents are not significantly increased as a result of the proposed F_Q^T increase.

The proposed amendment to: (1) replace the existing Constant Axial Offset Control (CAOC) procedures with a combined Relaxed Axial Offset Control (RAOC)/Base Load operating strategy; (2) replace the F_{xy} Surveillance of Technical Specification 4.2.2.1 with an F_Q Surveillance; and (3) revise the $f(\Delta t)$ reset function in Technical Specification Table 2.2.1 does not increase the probability of an accident previously evaluated because they do not affect any systems or equipment which are involved in the initiation or mitigation of any previously analyzed accident. As such, these changes can not increase the probability of any accidents previously evaluated.

CP&L has determined that the proposed amendment to: (1) replace the existing Constant Axial Offset Control (CAOC) procedures with a combined Relaxed Axial Offset Control (RAOC)/Base Load operating strategy; (2) replace the F_{xy} Surveillance of Technical Specification 4.2.2.1 with an F_Q Surveillance; and (3) revise the $f(\Delta t)$ reset function in Technical Specification Table 2.2.1 does not increase the consequences of an accident previously evaluated. RAOC is a method of using available margin by expanding the allowable axial flux difference (AFD) band, particularly at reduced power levels. This enhances operational flexibility during routine operational maneuvers. RAOC in combination with F_Q surveillance provides an alternate method for assuring plant operation remains below the F_Q^T limit specified in the Technical Specifications based upon a measured parameter, neutron flux. The RAOC methodology has been approved for use by the NRC in WCAP-10216-P-A, Relaxation of Constant Axial Offset Control, F_Q Surveillance Technical Specification, dated June 1983, and has been approved for use at many

operating facilities including McGuire Units 1 and 2 and Catawba Units 1 and 2. Therefore, the consequences of previously evaluated accidents at SHNPP will now be comparable to that at other Commission accepted RAOC/ F_Q Surveillance plants.

The impact of operating under the proposed RAOC strategy is determined by the effect the power shape envelope resulting from the newly defined AFD limits has on the consequences of the safety analyses presented in the SHNPP FSAR. For non-LOCA events, the power shapes resulting from RAOC have been evaluated with respect to the limiting power shape used in the existing analyses. It has been determined that the most limiting RAOC power shape results in a higher DNBR value than the reference power shape used in the current FSAR analyses. Therefore, the consequences of the non-LOCA events remain unchanged. In addition, power shapes which could occur at the core limits are determined using the RAOC power shape envelope and are used to define the $f(\Delta t)$ reset function (a component of the OT-delta-T trip function) necessary to preserve a DNBR of 1.30 and to meet fuel clad stress requirements. The more restrictive $f(\Delta t)$ reset function, reflected in the revised Technical Specification 2.2.1, preserves the DNBR and fuel clad stress limits used in the current analyses. Since the design limits for DNBR and clad stress remain the same as in the current analyses, the more restrictive Technical Specification limit placed on the $f(\Delta t)$ reset function provides assurance that the consequences presented in the SHNPP FSAR remain unchanged with the implementation of RAOC.

For the LOCA analysis, the power shape envelope defined by the new RAOC limits has been determined to be bounded by the chopped cosine shape for Large break LOCA and the top-skewed shape for the small break LOCA that form the basis for the existing analysis. Therefore, the adoption of RAOC does not change the existing LOCA analyses presented in the SHNPP FSAR and, as such, the consequences are not changed.

The proposed changes provide the flexibility to use a Base Load mode of operation. The analysis to support this mode of operation is the standard Westinghouse CAOC methodology as approved by the NRC in WCAP-8385, Topical Report - Power Distribution Control and Load Following Procedures, September 1974 and is currently in use at SHNPP. The power shapes resulting from operating within the narrow AFD

bands allowed under Base Load result in a more conservative DNBR value than those allowed under RAOC and, therefore, are bounded by the discussions mentioned previously.

The proposed change replaces the existing F_{xy} Surveillance with an F_Q Surveillance. F_Q Surveillance is an alternate method to F_{xy} Surveillance that provides a more precise means of ensuring that the core F_Q remains within Technical Specification limits during routine operational maneuvers and has been approved by the NRC for use with RAOC/Base Load operation in WCAP-10216-P-A, Relaxation of Constant Axial Offset Control, F_Q Surveillance Technical Specification, dated June 1983. The change to F_Q Surveillance is only a change in the means by which measured power distributions are penalized in order to maintain actual power distributions within Technical Specification limits during operational maneuvers it does not represent a change to these limits. In addition, the existing Technical Specifications allow operation to continue with F_{xy} outside the Technical Specification limits provided an analysis of the effect on F_Q is performed. The proposed F_Q Surveillance removes this flexibility by establishing fixed limits on F_Q . Based on the above reasoning, CP&L has determined that use of F_Q Surveillance does not involve a significant increase in the consequences of previously evaluated accidents. Use of F_Q Surveillance in combination with RAOC/Base Load has been approved for use at many operating facilities including McGuire Units 1 and 2 and Catawba Units 1 and 2; therefore, the consequences of previously analyzed accidents at SHNPP will now be comparable to those at other Commission accepted F_Q Surveillance plants.

The proposed change to Technical Specification 6.9.1.6 is administrative in nature and, as such, can not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. None of the proposed changes introduce any new equipment or require any existing equipment or systems to perform a different type of function than they are currently designed to perform. In addition, F_Q Surveillance requirements in combination with RAOC/Base Load operations have been approved by the NRC for other operating units such as McGuire Units 1 and 2 and Catawba

Units 1 and 2. New or different accidents were not created by the use of this methodology on those similar Westinghouse reactors.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The assumptions made in the existing accident analyses for non-LOCA and small break LOCA events currently assume an F_q^T of 2.32 or greater. Therefore, these analyses remain bounding when compared to the proposed increase in the F_q^T limit to 2.32 and the associated change in the $K(z)$ Local Axial Penalty Function. As such, there is no change to the margin of safety for non-LOCA and small break LOCA events. A reanalysis of the Large break LOCA event was performed by Westinghouse. This analysis was performed using the NRC approved BASH computer code. The BASH computer code provides a more realistic thermal/hydraulic simulation of the reactor core and the Reactor Coolant System during the reflood phase of a LOCA, thereby allowing the increased F_q^T limits. The NRC generically approved the Westinghouse BASH analysis methods as WCAP-10266, Revision 2. The results of this reanalysis show a decrease in the peak clad temperature, a slight increase in the maximum local metal-water reaction, and a comparable total core metal-water reaction. The increase in the maximum local metal water reaction is from 5.69% to 6.03%, which is insignificant when compared to the acceptance criteria of 17% specified by Appendix K of 10 CFR 46. Based on the above reasoning, CP&L has determined that, the proposed change does not significantly decrease the margin of safety.

The proposed changes to: (1) replace the existing Constant Axial Offset Control (CAOC) procedures with a combined Relaxed Axial Offset Control (RAOC)/Base Load operating strategy; (2) replace the F_{xy} Surveillance of Technical Specification 4.2.2.1 with an F_q Surveillance; and (3) revise the $f(\Delta-I)$ reset function in Technical Specification Table 2.2.1 do not involve a significant reduction in the margin of safety.

The impact of operating under the proposed RAOC strategy is determined by the affect the power shape envelope resulting from the newly defined AFD Limits has on the consequences of the safety analyses presented in the SHNPP FSAR. For non-LOCA events, the power shapes resulting from RAOC have been evaluated with respect to the limiting power shape used in the existing analyses. It has been determined that the most limiting RAOC power shape

results in a higher DNBR value than the reference power shape used in the current FSAR analyses. Therefore, there is no change in the margin of safety. In addition, power shapes which could occur at the core limits are determined using the RAOC power shape envelope and are used to define the $f(\Delta-I)$ reset function (a component of the OT-delta-T trip function) necessary to preserve a DNBR Of 1.30 and to meet fuel clad stress requirements. The more restrictive $f(\Delta-I)$ reset function, reflected in the revised Technical Specification 2.2.1, preserves the DNBR and fuel clad stress limits used in the current analyses. Standard Westinghouse methodology defines the $f(\Delta-I)$ reset function by defining which RAOC power shapes will meet a DNBR of 1.30 and the limit on fuel clad stress. Those shapes which would cause a violation of these limits are prevented from occurring by making the Technical Specification $f(\Delta-I)$ reset function more restrictive. In this manner, the margin of safety is not reduced.

For the LOCA analysis, the power shape envelope defined by the new RAOC limits have been determined to be bounded by the chopped cosine shape for Large break LOCA and the top-skewed shape for the small break LOCA that form the basis for the existing analysis. Therefore, the adoption of RAOC does not affect the existing margin of safety for the LOCA analyses presented in the SHNPP FSAR.

The proposed changes provide the flexibility to use a Base Load mode of operation. The analysis to support this mode of operation is the standard Westinghouse CAOC methodology as approved by the NRC in WCAP-8385, Topical Report - Power Distribution Control and Load Following Procedures, September 1974 and is currently in use at SHNPP. The power shapes resulting from operating within the narrow AFD bands allowed under Base Load result in a more conservative DNBS value than those allowed under RAOC, and therefore are bounded by the discussions mentioned previously and do not decrease the margin of safety.

The proposed change replaces the existing F_{xy} surveillance with an F_q Surveillance. F_q Surveillance is an alternate method to F_{xy} Surveillance that provides a more precise means of ensuring that the core F_q remains within Technical Specification limits during routine operational maneuvers and has been approved by the NRC for use with RAOC/Base Load operation in WCAP-10216-P-A, Relaxation of Constant Axial Offset Control, F_q Surveillance - Technical Specification, dated June 1983.

The change to F_q Surveillance is only a change in the means by which measured power distributions are penalized in order to maintain actual power distributions within Technical Specification limits during operational maneuvers it does not represent a change to the limits. In addition, the existing Technical Specifications allow operation to continue with F_{xy} outside the Technical Specification limits provided an analysis of the effect on F_q is performed. The proposed F_q Surveillance removes this flexibility by establishing fixed limits on F_q . Based on the above reasoning, CP&L has determined that use of F_q Surveillance does not involve a significant reduction in the margin of safety. Use of F_q Surveillance in combination with RAOC/Base Load has been approved for use at many operating facilities including McGuire Units 1 and 2 and Catawba Units 1 and 2; therefore, the margin of safety at SHNPP will now be comparable to that of other Commission accepted F_q Surveillance plants.

The proposed change to Technical Specification 6.9.1.6 is administrative in nature and, as such, can not involve a significant reduction in the margin of safety.

Group 3

The changes do not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendment revises the equation used to determine F-Delta-H, the Nuclear Enthalpy Rise Hot Channel Factor, presented in Technical Specification 3.2.3.b. The existing 0.2 multiplier is being increased to 0.3. This multiplier acts to increase the allowable F-Delta-H at reduced power levels. In addition, the core limit curves presented in Technical Specification Figure 2.1-1 have been revised. The proposed amendment does not affect any systems or equipment which are involved in the initiation or mitigation of any previously analyzed accident and, as such, can not increase the probability of any accident previously evaluated.

Since the increase in the F-Delta-H multiplier only allows a higher Nuclear Enthalpy Rise Hot Channel Factor at power levels below 100%, the majority of safety analyses (those initiated from full power) are not impacted. Non-LOCA transients initiated from reduced power which directly model F-Delta-H are affected by the changes. Indirectly, any events which rely on the OT-delta-T/

OP-delta-T setpoints for protection may be impacted by the increase in the F-Delta-H multiplier. Since a power dependent value of F-Delta-H is assumed in the generation of the core limits, the increase in F-Delta-H at reduced power will result in a change to the core limits below 100% power. The existing OT-delta-T/OP-delta-T setpoints were compared to the revised core limits which include the F-Delta-H multiplier increase. It was determined that the existing setpoints continue to protect the limits shown in Technical Specification Figure 2.1-1, and thus events which rely on the OT-delta-T/OP-delta-T setpoints for protection remain within their acceptance criteria presented in Chapter 15 of the SHNPP FSAR. The only SHNPP FSAR Chapter 15 event initiated from part power is startup of an inactive loop. An evaluation has shown that the current limit specified in FSAR Section 15.4.4 for the minimum DNBR (greater than 1.30) is met for this event with the revised F-Delta-H multiplier. In addition, operation with an inoperable loop is not permitted by the SHNPP Technical Specifications.

Based on the above reasoning, the consequences of previously evaluated accidents are not increased.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in Item 1, the proposed amendment does not introduce any new equipment or require any existing equipment or systems to perform a different type of function than they are currently designed to perform. The change merely establishes revised F-Delta-H limits at reduced power levels. Therefore, the proposed change can not create the possibility of a new or different kind of accident from any accident previously evaluated. In addition, similar changes to the F-Delta-H multiplier have been granted for McGuire Units 1 and 2 and Catawba Units 1 and 2. No new or different accidents from those analyzed for SHNPP are addressed for these plants.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The proposed amendment revises the equation used to determine F-Delta-H, the Nuclear Enthalpy Rise Hot Channel Factor, presented in Technical Specification 3.2.3.b. The existing 0.2 multiplier is being increased to 0.3. This multiplier acts to increase the allowable F-Delta-H at reduced power levels. In addition, the core limit curves presented in Technical Specification Figure 2.1-1 have been

revised to reflect the increase in allowed peaking for power levels less than 100%. Since a power dependent value of F-Delta-H is assumed in the generation of the core limits, the increased allowable peaking for power levels less than 100% tends to reduce the margin between the OT-delta-T trip setpoints and the curves representing the loci of 1.30 DNBR points. Since the increase in the F-Delta-H multiplier only allows a higher peaking at power levels below 100%, the majority of safety analyses (those initiated from full power) are not impacted. The only SHNPP FSAR Chapter 15 event initiated from part power is startup of an inactive loop. An evaluation has shown that the current limit for the minimum DNBR (greater than 1.30) is met for this event with the revised F-Delta-H multiplier. In addition, operation with an inoperable loop is not permitted by the SHNPP Technical Specifications. Based on this reasoning, the Company has determined that the proposed change does not involve a significant reduction in the margin of safety.

Group 4

The changes do not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The revision to the shutdown margin requirements established in Technical Specifications 3.1.1.1 and 3.1.1.2 does not increase the probability of an accident previously evaluated because it does not affect any systems or equipment involved in the initiation or mitigation of any previously analyzed accident. The proposed changes to Technical Specification 3.1.1.1 are administrative in nature. Reference to Modes 3 and 4 is deleted from Technical Specification 3.1.1.1 and included in the revised Technical Specification 3.1.1.2. The licensing basis for SHNPP establishes 15 minutes as an acceptable operator action time limit for termination of an Inadvertent Boron Dilution (IBD) event. For Mode 3, an operator action time of 15 minutes to terminate the IBD event has been preserved by the proposed amendment. Also, appropriate margins for uncertainties and malfunctions, such as a stuck rod, are maintained. The IBD event for Mode 4, though not currently analyzed in the SHNPP FSAR, has been analyzed for Cycle 2 to ensure that the same criteria applicable to Mode 3 are met. This represents an added conservatism since an IBD event is not currently analyzed in the SHNPP FSAR. The revised Technical Specification

3.1.1.2 for Mode 5 increases the required shutdown margin at high boron concentrations and reduces the required shutdown margin at low boron concentrations. The only SHNPP FSAR Chapter 15 event affected by the proposed sliding shutdown margin coupled with the lower High Flux at Shutdown Alarm (HFSAA) setpoint maintains at least 15 minutes from alarm indication to loss of shutdown margin and assures that appropriate margins for uncertainties and malfunctions such as a stuck rod are maintained. Therefore, the consequences of the IBD event are not increased.

The increased minimum fluid volume requirements for the boric acid tank and the refueling water storage tank specified in Technical Specifications 3.1.2.5 and 3.1.2.6 do not alter the method in which any safety related system performs its intended function. Therefore, the revision to Specifications 3.1.2.5 and 3.1.2.6 does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not require the use of a new or different system than currently exists, nor does it require existing systems to perform functions which they were not intended to perform. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. In addition, similar changes to incorporate a variable shutdown margin have been granted for V.C. Summer, Vogtle, and South Texas Project. No new or different accidents from those analyzed for SHNPP are addressed for these plants.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The proposed changes to Technical Specification 3.1.1.1 are administrative in nature. Reference to Modes 3 and 4 is deleted from Technical Specification 3.1.1.1 and included in the revised Technical Specification 3.1.1.2. The licensing basis for SHNPP establishes 15 minutes as an acceptable operator action time limit for termination of an Inadvertent Boron Dilution (IBD) event. For Mode 3, an operator action time of 15 minutes to terminate the IBD event has been preserved by the proposed amendment. Also, appropriate margins for uncertainties and malfunctions, such as a stuck rod, are maintained. The IBD event for Mode 4, though not currently analyzed in the SHNPP FSAR, has been analyzed for Cycle 2 to ensure that the same criteria applicable to Mode 3 are met. This represents an added

conservatism since an IBD event is not currently analyzed in the SHNPP FSAR. The revised Technical Specification 3.1.1.2 for Mode 5 increases the required shutdown margin at high boron concentrations and reduces the required shutdown margin at low boron concentrations. The only SHNPP FSAR Chapter 15 event affected by the proposed reduction in shutdown margin in Mode 5 is IBD. The Mode 5 IBD event has been reviewed to ensure that during normal operation including anticipated operational occurrences specified fuel design limits are not exceeded. The proposed sliding shutdown margin coupled with a lower HFSA setpoint maintains at least 15 minutes from alarm indication to loss of shutdown margin and assures that appropriate margins for uncertainties and malfunctions such as a stuck rod are maintained. Therefore, the revision to the shutdown margin requirements established in Technical Specifications 3.1.1.1 and 3.1.1.2 does not involve a significant reduction in the margin of safety.

The increased minimum fluid volume requirements for the boric acid tank and the refueling water storage tank specified in Technical Specifications 3.1.2.5 and 3.1.2.6 do not alter the method in which any safety related system performs its intended function. The minimum borated water volumes were increased so that sufficient inventory is available to provide the required shutdown margin. Therefore, the revision to Specifications 3.1.2.5 and 3.1.2.6 does not involve a reduction in the margin of safety.

Group 5

The changes do not involve a significant hazards consideration for the following reasons:

1. Revising the surveillance frequencies associated with calibration of the excore detectors from a strictly calendar basis to an Effective Full Power Days does not affect any systems or equipment which are involved in the initiation or mitigation of any previously analyzed accident. The change to the surveillance interval does not alter the channels ability to perform their necessary functions. The instruments response changes as a function of core exposure and is not dependent on the number of calendar days between surveillance. The existing Technical Specification allows for plant operation at 100% power for 30 calendar days, therefore, the excore detector is currently allowed to operate for up to 30 EFPD without recalibration. Since instrument response is a function of core exposure, revising the Technical Specification allows for plant operation at 100% power for 30 calendar days,

therefore, the excore detector is currently allowed to operate for up to 30 EFPD without recalibration. Since instrument response is a function of core exposure, revising the Technical Specification surveillance interval from 30 calendar days to 30 EFPD does not represent a relaxation of current Technical Specification requirements. Therefore, the proposed revision to the Technical Specification Table 4.3-1 surveillance frequencies does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the fuel assembly description in Technical Specification 5.3.1 does not affect any systems or equipment involved in the initiation or mitigation of any previously analyzed accident. The change merely allows replacement of damaged fuel rods with filler rods or vacancies provided a cycle specific evaluation is performed to justify the modification. Therefore, the proposed revision to Technical Specification 5.3.1 does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes to Technical Specification Table 4.3-1 and Technical Specification 5.3.1 do not require the use of a new or different system than currently exists, nor do they require existing systems to perform functions for which they were not intended. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The change to the surveillance intervals associated with the calibration of the excore power range channels specified in Technical Specification Table 4.3-1 does not adversely affect their operability. The instruments response changes as a function of core exposure and is not dependent on the number of calendar days between surveillance. The existing Technical Specification allows for plant operation at 100% power for 30 calendar days, therefore, the excore detector is currently allowed to operate for up to 30 EFPD without recalibration. Since instrument response is a function of core exposure, revising the Technical Specification surveillance interval from 30 calendar days to 30 EFPD does not represent a relaxation of current Technical Specification requirements. Therefore, this change does not result in a significant reduction in the margin of safety.

The proposed change to Technical Specification 5.3.1 allows substitution of

filler rods or vacancies for damaged fuel rods provided a cycle specific evaluation is performed to justify the modification. This evaluation will take into account the actual configuration of the reconstituted assemblies. Therefore, the proposed revision to Technical Specification 5.3.1 does not involve a significant reduction in the margin of safety.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's conclusions. Specifically, regarding Group 1, Item 1, paragraph 3, the increase in the probability of a rod ejection event is solely a function of the number of rods in the core as there is no change in the control rod mechanism pressure housing or the surveillance of the housing to assure its integrity which would increase the probability of mechanical failure. Although the probability of a rod ejection event has not been quantified, it is considered to be a low enough probability event that the increase from four to eight rods in Control Bank D is not a significant increase in the probability of the accident. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

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location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

Attorney for licensees: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: February 19, 1988

Description of amendment request: The proposed change will revise Technical Specification Table 3.11-1, "Containment Isolation Valves" by adding five containment isolation valves (CIVs) and deleting two CIVs. Table 3.11-2 will have a page number change from 3-20d to 3-20e.

Basis for proposed no significant hazards consideration determination: Haddam Neck Technical Specification, Table 3.11-1, "Containment Isolation Valves," list CIVs that are designed to automatically close upon a high

containment pressure or safety injection signal. During the 1987 refueling outage, plant modifications were implemented to containment penetrations P-7, P-10, P-23B, P-23C, P-23D, P-30, P-31, P-35, P-36, P-37, P-38, P-41, P-59, P-60, P-70 and P-72B.

CYAPCO has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded that they do not involve a significant hazards consideration. The licensee's basis for this conclusion is that the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Penetration No. P-23B is permanently capped. Therefore, LM-TV-1812 is not required as a CIV.

Penetration No. P-7, seal water return, does not require CH-MOV-331 as a CIV due to the installation of two new CIVs, CH-TV-240 and CH-TV-241. These two new CIVs do not close automatically upon a CIS but seal water system leakage is included in the 3 liters per hour total leakage assumed in the design basis analysis. If CH-TV-240 or CH-TV-241 fails closed, that failure will not increase the probability of occurrence of a previously analyzed accident or the consequences of such an accident. If either CH-TV-240 or CH-TV-241 fail open when they are required to be shut, the other (nonfailed) valve will provide the closing function since they are in series. (This is the basic principle of 10 CFR 50, Appendix A, General Design Criterion 56.) Therefore, whether CH-TV-240 or CH-TV-241 fails open or closed, no new failure mechanism is introduced.

If LD-TV-230 inadvertently closes or fails closed, letdown flow would stop and a level excursion would result in the pressurizer. In this event, the operators would establish an alternate letdown flow path in accordance with plant procedures. This does not constitute a new failure mechanism since the potential already exists for the three existing AOVs (LD-FCV-202, 203, and 204) to fail closed. The probability or consequences of a design basis event will not be increased. The excursion caused by LD-TV-230 going closed will not initiate a design basis accident. If LD-TV-230 fails open with a CIS, LD-FCV-202, 203, and 204 will shut since only one active failure is assumed. Therefore, the probability of occurrence or consequences of a previously analyzed accident will not increase if LD-TV-230 fails open.

If HS-TV-380 or 381 fails (either closed or open) the failure would not increase the probability of occurrence or consequences of any accident

previously evaluated in the Safety Analysis Report since they are not part of a safety-related system and provide no safety function.

Failure or inadvertent closure of CC-TV-917 or CC-TV-920 would eventually result in an increase in temperature of the neutron shield tank. However, this failure will not initiate nor increase the consequences or probability of a design basis event. Therefore, the probability of occurrence or consequences of an accident previously evaluated will not be increased since that failure mechanism already existed with CC-TV-1831 which is also contained in the CCW line from the neutron shield tank cooler and closes on a CIS. If either CC-TV-917 or 920 fails open on a CIS, the nonfailed valve will accomplish the closing function and provide containment isolation for that penetration.

Furthermore, adding five new valves and deleting two valves to Table 3.11-1 does not increase the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Safety Analysis Report since the change involves adding more valves to the list of CIVs that automatically close. Adding these five (5) new automatic valves to the list provides more assurance that the CIVs will function when required. This assurance includes both that the valves will close automatically and that their leakage when closed is below that assumed in the design basis accidents. Therefore, the change does not adversely impact the consequences or increase the probability of the design basis accidents.

2. Create the possibility of a new or different kind of accident from any previously evaluated. The possibility for an accident or malfunction of a different type than any accident previously evaluated in the Safety Analysis Report is not created since:

- with respect to CH-TV-240 and 241, the failure mechanism (fail closed) already existed with CH-TV-334,
- with respect to LD-TV-230, the failure mechanism (fail closed) already existed with LD-FCV-202, 203, and 204,
- with respect to HS-TV-380 and 381, the house heating steam system does not serve any safety-related function, and
- with respect to CC-TV-917 and 920, the failure mechanism already exists with CC-TV-1831.

The change increases the number of valves to the list of containment isolation valves. Adding the above valves to the list does not modify plant response or affect the probability of any new accident. There are no failure

modes associated with the technical specification change.

3. Involve a significant reduction in a margin of safety. The leak rate testing associated with the penetrations affected ensure that there is no adverse impact on containment integrity. The additions to these systems improve the margin of safety because the penetrations affected now conform to 10 CFR 50, Appendix A, GDC 56 and allow for leak testing in accordance with 10 CFR 50, Appendix J. Since the proposed changes to the technical specifications do not affect the consequences of any accident previously analyzed, there is no reduction in a margin of safety.

The staff has reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room
location: Russel Library, 123 Broad Street, Middletown, Connecticut 06457.*

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NRC Project Director: John F. Stoltz

Consolidated Edison Company of New York, Docket Nos. 50-003 and 50-247, Indian Point Nuclear Generating Unit Nos. 1 and 2, Westchester County, New York

*Date of amendment request:
December 8, 1986, December 14, 1987 and March 3, 1988*

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensee submitted an amendment to the Physical Security Plan for the Indian Point Nuclear Generating Unit Nos. 1 and 2 to reflect recent changes to that regulation. The proposed amendments would modify paragraph 3.D of Facility Operating License No. DPR-5 and paragraph 2.J of Facility Operating License No. DPR-26 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions

of 10 CFR 73.55. The licensee submitted its revised plan on December 8, 1986, December 14, 1987 and March 30, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the licenses to reference the revised plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room
location: White Plains Public Library,
100 Martine Avenue, White Plains, New
York, 10610.

Attorney for licensee: Brent L.
Brandenburg, Esq., 4 Irving Place, New
York, New York 10003.

NRC Project Director: Robert A.
Capra, Director

**Consolidated Edison Company of New
York, Docket Nos. 50-003 and 50-247,
Indian Point Nuclear Generating Unit
Nos. 1 and 2, Westchester County, New
York**

Date of amendments request: April 15,
1988

Description of amendments request:
The proposed amendments would revise the Indian Point 1 and 2 Technical Specifications concerning organization. Specifically, the Director, Power Generation Services, has been promoted to the title Assistant Vice President, Power Generation Services, reporting directly to the Senior Vice President, Central Operations. The Senior Vice

President, Central Operations, reports to an Executive Vice President, whose responsibilities, while not indicated in the revised organization chart have been expanded. The Executive Vice President reports to the President. In the current Specifications, the position of Senior Vice President Central Operations does not exist. Instead the Director, Power Generation Services, is shown to report to the Executive Vice President Central Operations, who reports to the President. Additionally, changes are being made to the Nuclear Power Organization chart. The Chemistry Manager and staff, formerly reporting to the General Manager, Technical Support, will now report to the General Manager, Environmental Health and Safety. The Test and Performance group, currently shown to report to the General Manager, Technical Support, will report to the Chief Plant Engineer who reports to the General Manager, Technical Support.

Basis for proposed no significant hazards consideration determination:
The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in margin of safety.

The licensee has determined, and the NRC staff agrees that the proposed amendments will not involve a significant hazards consideration. The proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated in that the proposed changes reflect the licensee's reorganization with realignment and consolidation of responsibilities. The changes are administrative and as such do not involve hardware or procedural changes to the facility. The amendments will not create the possibility of a new or different kind of accident because the proposed changes are intended to enhance the licensee's organization and as stated previously do not involve any facility hardware or procedural changes. The proposed changes do not involve a reduction in margin of safety because the changes are administrative in nature. All functions performed previously will continue to be performed by the new organizations.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room
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NRC Project Director: Robert A.
Capra, Director

**Consolidated Edison Company of New
York, Docket No. 50-247, Indian Point
Nuclear Generating Unit No. 2,
Westchester County, New York**

Date of amendment request: October
13, 1987

Description of amendment request:
The proposed changes to the Indian Point 2 Technical Specifications will remove fire protection requirements in accordance with Generic Letter 86-10. The fire protection requirements which would be removed by the proposed changes have been incorporated into the "Indian Point 2 Fire Protection Plan" which is referenced as part of the updated FSAR and implemented by plant procedures with the exception of plant shutdown restrictions associated with the high pressure water fire protection system as contained in Specification 3.13.A.3(c). Specifically the following changes are requested:

(1) Technical Specification 3.13, Fire Protection and Detection Systems, would be deleted.

(2) Technical Specification 4.14, Fire Protection and Detection Systems (Surveillance Requirements) would be deleted.

(3) Technical Specification 6.2.2, Facility Staff, would be revised to delete item f, which identifies the requirements for fire brigade.

(4) Technical Specification 6.4, Training, would be revised to delete Section 6.4.2 which requires a fire brigade training program.

(5) Technical Specification 6.5.2.8, Audits, would be revised to delete items h, i, and j which require periodic audits of the facility fire protection and loss prevention program and implementing procedures.

(6) Technical Specification 6.9.2, Special Reports, would be revised to delete item b which deletes the reporting requirement associated with the inoperability of the fire protection and detection equipment within the scope of Technical Specification 3.13.

(7) License Condition 2.K dealing with changes to the Fire Protection Program would be revised to address the fire

protection program plan as described by reference in the updated Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will involve a no significant hazards consideration if the proposed amendment does not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident previously evaluated, or (3) involve a significant reduction in margin of safety.

The licensee provided the following analysis:

"...the aforementioned proposed change would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated, since the fire protection program requirements are not being changed, with the exception of deletion of the plant shutdown restriction requirements presently dictated by Specification 3.13.A.3(c) for the high pressure water fire protection system. Deletion of these requirements would not involve a significant increase in the probability or consequences of an accident previously evaluated because the Fire Hazards Analysis does not solely rely on the high pressure water protection system to ensure the capability to achieve safe shutdown in the event of a fire, and the plant accident analysis does not assume that a Design Basis Accident occurs simultaneously with a fire. The IP-2 Alternate Safe Shutdown System (ASSS), which assures that the plant can be brought to a controlled safe shutdown given a fire, does not rely on the high pressure water system. In any case, several means of fire detection and fire protection are not affected by the loss of the high pressure water system and therefore remain operable. These fire protection capabilities include fire detection instrumentation, plant fire barriers, halon fire suppression and backup hydrants supplied by city water. Also, impairment criteria in the IP-2 Fire Protection Program Plan (FPPP) requires establishment of an additional backup fire protection system or verification of ASSS operability within 24 hours.

(2) create the possibility for a new or different kind of accident from any previously evaluated, since the proposed change does not involve any physical change in plant equipment. The shutdown requirement is unnecessary because fire detection and fire protection capabilities remain available in the event of the loss of the high pressure water system. Thus, deletion of this shutdown requirement will not create the possibility for a new or different kind of accident from any previously evaluated. With the exception of the unnecessary shutdown requirement, those aspects of the fire protection program covered by existing Technical Specifications will continue to be implemented. The FPPP includes the program aspects and fire protection design provisions pertaining to safety related and safe shutdown features in

effect at IP-2. Implementation and maintenance of the fire protection program will continue to require operability of the fire protection design features presently covered by the requested change to License Condition 2.K, which requires the approved fire protection program, as described by reference in the Updated Final Safety Analysis Report (UFSAR), to continue to be properly implemented and maintained.

(3) involve a significant reduction in the margin of safety, since the fire protection program compliance will continue as required by proposed License Condition 2.K as part of the UFSAR. With the proposed change, all safety criteria previously evaluated are still met and remain conservative. The periodic testing and inspection of the fire protection design features and actions to be taken in the event of inoperability currently addressed in the Technical Specifications have been included in the impairment criteria of the IP-2 FPPP and implemented by controlled plant procedures to conform to the current interpretation of NRC fire protection regulations. The proposed deletion of the shutdown requirement for loss of the high pressure water fire protection system does not involve a significant reduction in the margin of safety since alternate means of fire detection and fire protection remain available.

The proposed change would revise License Condition 2.K to require implementation and maintenance in effect of the approved fire protection program which is described in the UFSAR, and the "Indian Point Unit 2 Fire Protection Program Plan," which by reference, is part of the USFAR and contains the Fire Hazards Analysis. The USFAR is updated annually in accordance with 10CFR50.71(e). The proposed License Condition would allow Con Edison to make changes to the approved fire protection program without prior NRC approval provided that those changes do not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire. The proposed License Condition is consistent with the standard license condition provided by Generic Letter 86-10.

The proposed change would also delete existing technical specifications relating to implementation of the fire protection program. Those aspects of the fire protection program covered by existing technical specification will continue to be implemented. Deletion of the technical specification requirements as describe above is consistent with NRC Generic Letter 86-10."

Based on the above, the staff proposes that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room
location: White Plains Public Library,
 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra, Director

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: March 18, 1988

Description of amendment request: The proposed amendment would revise the Indian Point 2 Technical Specifications to correct typographical errors, make editorial changes and to repaginate the text for uniformity purposes. In addition, the amendment would delete pertinent portions of the Technical Specifications that related to one-time only date extensions which have since expired and to plant equipment which had been removed from service pursuant to previously received submittals. An example of the former is the statement, "The January 1976 scheduled measurements with the moveable Incore Instrumentation System may be delayed until February 6, 1976," which is located currently in Section 3.11 of the Indian Point 2 Technical Specifications. An example of the latter is snubber 17-SR-1 (listed in Table 3.12-1, Sheet 4 of 13) which has a double-asterisk denoting that removal of this snubber has been approved, this snubber will be removed and at that time shall be considered deleted from this Table. Since the snubber has been physically removed from the system, it is being removed from the Table.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (March 6, 1986, 51 FR 7751) of amendments that are not likely to involve a significant hazards consideration. The proposed changes are enveloped by example (i) which relates to a purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The proposed changes correct typographical errors, makes editorial changes for consistency, repaginates the document and deletes obsolete information.

Therefore, the staff proposed that the changes will not involve a significant hazards consideration.

Local Public Document Room
location: White Plains Public Library,
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Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra, Director

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: January 26, 1988 (NRC-87-0202)

Description of amendment request: The proposed license amendment would change Technical Specifications 3/4.8.3.1., "Onsite Power Distribution Systems - Operating", and 3/4.8.3.2, "Onsite Power Distribution Systems - Shutdown", to clarify the Limiting Condition for Operation of the 480v MCC 72CF swing bus.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the Commission agrees, that the proposed changes to the Technical Specifications:

(1) Do not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes to specifically denote the operability requirement of the 480v MCC 72CF swing bus are clarifications only and are added to achieve consistency between the Limiting Condition of Operation and the corresponding surveillance requirement and to achieve consistency throughout the Technical Specifications. The changes only explicitly denote the requirements which have always been implicit to the operability of the swing bus and are considered not to involve a significant hazards consideration.

(2) Do not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in (1) above, these are editorial clarifications only and are added for consistency. These changes do not result in any modification to the plant or system operation and no safety-related equipment or function will be altered. The requested changes do not create any new accident mode.

(3) Do not involve a significant reduction in a margin of safety. As stated in (1) above, these are editorial clarifications only and are added for

consistency. Moreover, the changes will clarify for the operators, specific actions which have in the past been implicit in the Technical Specifications.

Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Martin J. Virgilio.

Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: June 1, 1987, as supplemented on November 24, 1987

Description of amendment request: The proposed amendments would revise the Station's common Technical Specifications (TSs) to update the LOCA - Limited Maximum Allowable Linear Heat Rate (Figure 3.5.2-16). These revisions would reflect NUREG-0630, Cladding Swelling and Rupture Models for LOCA Analysis and Babcock and Wilcox (B&W) Owners' Group Topical Report BAW-1915P, Bounding Analytical Assessment of NUREG-0630 models of LOCA Kw/ft limits with use of FLECSET.

A generic bounding assessment of the impact of NUREG-0630 on loss-of-coolant accident (LOCA) linear heat rate (LHR) limits has been performed by B&W on behalf of the B&W Owners Group. The evaluation was performed for all core elevations consistent with B&W Emergency Core Cooling System (ECCS) Evaluation Model methods. The impact of NUREG-0630 was a reduction in LOCA LHR limits at the 2, 4, and 6-foot core elevations because of rupture time dependency of these elevations.

In an effort to reduce the NUREG-0630 impact, the B&W Owners' Group has incorporated the benefits of using compensating models. B&W has evaluated the FLECHT-SEASET heat transfer correlation and modified it for B&W plant application. The modified correlation is modeled in the computer program "FLECSET".

BAW-1915P and BAW-10104 Revision 5 have been reviewed by the Commission and approved on October 5 and December 27, 1987. These reports provide the technical basis for this revision. The models addressed in these reports are used to determine the LOCA-Limited Maximum Allowable LHR. The

proposed revision to Figure 3.5.2-16 reflects application of the new models.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7744). Example (vi) of the types of amendments not likely to involve significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin but where the results of the changes are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

This proposed revision will update the LOCA-Limited Maximum Allowable Linear Heat Rate (Figure 3.5.2-16) to reflect NUREG-0630 and FLECSET data. As such, the previously analyzed accident that is applicable to this change would be a large break loss of coolant accident. Acceptance criteria for this event are identified in 10 CFR Part 50.46 and 10 CFR Part 50, Appendix K. FLECSET and BAW-10104P Rev. 5 (B&W's ECCS Evaluation Model) have been reviewed by the Commission.

FLECSET is a B&W modified version of the FLECHT-SEASET reflood heat transfer correlation. Reflood heat transfer coefficients versus time were calculated using FLECSET and compared to those calculated by the present large break LOCA Evaluation Model (BAW-10104, Rev. 3). The FLECSET reflood heat transfer coefficients at the 2-foot core elevation are higher than those calculated by the current Evaluation Model during the early stage of reflooding. These higher reflood heat transfer coefficients allow the peak cladding temperature to turn over earlier in the transient.

The licensee considers the correlation in FLECSET to be a more accurate correlation than that used in the current Evaluation Model (BAW-10104 Rev. 3) and is applicable for predicting reflood heat transfer coefficients to both skewed and cosine power shapes at any core elevation. Test benchmarks have been provided to demonstrate the ability of the B&W modified FLECSET code to conservatively predict experimental data. The staff has agreed that comparisons of FLECSET predictions to FLECHT test data and semiscale data demonstrate that FLECSET is conservative as used for Oconee.

Justification for use of the FLECSET code is based on (1) comparisons of calculated heat transfer coefficients calculated by FLECSET with those calculated by the present Evaluation Model, and (2) comparison with experimental data.

Each accident analysis addressed in the Oconee Final Safety Analysis Report (FSAR) has been examined with respect to changes to the LOCA - Limited Maximum Allowable Linear Heat Rate (Figure 3.5.2-16) resulting from the use of FLECSET and NUREG-0630 data. The limiting FSAR accident because of this change is a large break LOCA.

The staff has determined in its approval of FLECSET and BAW-10104 Rev. 5, and the analysis result applicable to Oconee, that operating conditions determined by such models are consistent with all NRC acceptance criteria and requirements including the NRC acceptance criteria for LOCAs identified in 10 CFR Part 50.46 and 10 CFR Part 50, Appendix K.

The proposed amendment is similar to example (vi) and accordingly, the Commission proposes to determine that the amendment revisions do not involve significant hazards considerations.

Local Public Document Room

location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 29, 1987, as supplemented December 4, 1987 and April 1, 1988

Description of amendment request: The proposed amendments would revise Technical Specification (TS) Table 4.3-1, "Reactor Trip Systems Instrumentation Surveillance Requirements" to delete the requirement to test the reactor coolant flow rates in the bypass loops in which Resistance Temperature Detectors (RTDs) are installed to measure the hot leg and cold leg temperatures. The revisions are applicable to Catawba Unit 1 only; however, Unit 2 is included administratively because the TSs for both Units are combined in one document. The flow rates affect the time response of the temperature signals which are needed for reactor controls and protection. The licensee proposes to remove the RTD bypass manifolds in

Unit 1 and to place the RTDs directly in the hot leg and cold leg pipes, thereby eliminating the need for bypass flow testing requirements. The proposed station modifications have already been completed for Unit 2 during its recent refueling outage. For Unit 1, they will be completed during its fourth refueling outage scheduled to end in March 1990.

In response to the licensee's letters of June 29 and December 4, 1987, the staff has previously published a **Federal Register Notice** (52 FR 49223). The licensee's letter of April 1, 1988, informed the staff that the modifications were completed for Unit 2 and the schedule for Unit 1 modifications was changed from January 1989 to March 1990.

For Catawba Unit 1 the next flow rate verification tests are due in May 1988 according to the TS requirement for flow rate verification tests every 18 months. The proposed amendments would exempt the licensee from the requirement to perform these tests.

In its letters of June 29 and December 4, 1987, and April 1, 1988, the licensee provided the following justifications for the proposed changes:

1. The performance of the RTD Bypass Loop flow rate test involves four people (two Nuclear Equipment Operators, one Performance Technician and one Health Physics Technician) spending four hours each in lower containment, which results in a significant dose to those involved.

2. There is minimal potential for flow blockage in the 2-inch and 3-inch diameter bypass lines.

3. Individual low flow alarms with individual status lights for each reactor coolant loop bypass flow are provided on the main control board. The alarm and status lights provide the operator with immediate indication of low flow condition in the bypass loops associated with any reactor coolant loop. If the RTD Bypass Loop flow rate for Loop A, B, C or D decreases to 90% of its initial measured value, an annunciator alarms in the control room. Since the initial measured values for all of the loop flows are well above the minimum acceptable flow rates, the control room annunciator will alarm well in advance of any loop flow rate dropping below the acceptance criterion flow rate. A quarterly channel calibration will be performed on the control room low flow alarms.

4. Local indicators are provided to monitor total flow through the RTD bypass manifolds for each loop. The indicators are located inside containment but are accessible during power operations. These indicators will be monitored quarterly, as well as following any bypass low flow alarm or

following a period when a bypass loop has been out of service.

5. The deletion of the flow rate verification tests will have no effect upon the ability of the RTDs to perform their intended safety functions.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendments will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the deletion of the bypass flow rate verification tests will not degrade the safety aspects of the RTD temperature measurement capability. Low bypass flow rates will continue to be alarmed in the control room, and the flow rates will continue to be measured quarterly on the local flow rate indicators.

The proposed amendments will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the design and operation of the plant will be unaffected and no new plant configurations are introduced.

The proposed amendment will not (3) involve a significant reduction in a margin of safety because of the continued availability of the local flow rate indicators and of the low flow alarms in the control room.

Based on the above considerations, the Commission proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room
location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: February 15, 1988

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 4.8.1.1.2g.7 and add TS 4.8.1.1.2g.15 to permit testing of the diesel generators (DGs) for a 24 hour (or more) test run and a Hot Restart with full engineered safety features (ESF) load acceptance separately and independently. Currently, these tests are carried out in succession.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The bases for this proposed determination are discussed below for the separation of the 24-hour diesel run and the Hot Restart with full ESF Load Test. The licensee states that this change separates the two tests (24 hour run and Hot Restart) in order to minimize delays associated with testing during plant outages. As a result of the change, the Hot Restart Testing requirements are virtually unchanged because the DGs would be operated until temperature stabilization is achieved which is the objective in both cases. This proposed change would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the Hot Restart testing requirements are virtually unchanged. This proposed change would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the tests under the proposed change would be carried out under conditions which are nearly identical to those required for the current tests.

Because the proposed change does not significantly alter the requirements for either the 24 hour test run or the Hot Restart test with full ESF load acceptance, it provides nearly the same degree of assurance regarding the DG operability and reliability. Therefore,

the proposed change would not (3) involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that the change does not involve a significant hazards consideration.

Local Public Document Room

location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: October 23, 1986 (TSCR 148) as revised April 5, 1988. The October 23, 1986 submittal was published in the Federal Register on November 19, 1986 (51 FR 41855).

Description of amendment request: The proposed amendment would revise the requirements on the maximum radioiodine concentration allowed in the reactor coolant in Sections 3.6 and 4.6, Radioactive effluents, in the Appendix A Technical Specifications (TS). The proposed changes (1) add a new definition to Section 1.0, Definitions, and to the Table of Contents, (2) reduce the maximum allowed concentration of radioiodine in the reactor coolant in Section 3.6, (3) add reporting requirements to Section 3.6, (4) add sampling and analysis requirements for iodine following changes in thermal power or offgas level to Section 3.6, and (5) restrict the reactor modes, where a radioiodine sample is required to be taken, to the Run, Startup and Shutdown Modes in Section 4.6.

Basis for proposed no significant hazards consideration determination: The licensee stated in its amendment request that on October 22, 1984, it submitted Technical Specification Change Request (TSCR) No. 69, Revision 1, "Radiological Effluent Environmental Technical Specifications." The TSCR No. 69, Revision 1 proposed changes to TS Sections 3.6 and 4.6 concerning reactor coolant system (RCS) radioiodine activity limits and surveillance requirements. These changes were proposed following discussions with the NRC staff during the integrated assessment of the Systematic Evaluation Program (SEP) for Topic XV-18, "Radiological Consequences of Failure of Small Lines Carrying Primary Coolant Outside Containment."

Subsequently, the NRC staff requested resubmittal of the proposed changes for RCS radioactivity limits by providing a definition for Dose Equivalent Iodine I-131, limits for non-iodine radioactivity in the RCS and an annual reporting requirement for radioiodine spiking as shown in Standard Technical Specifications for General Electric Boiling Water Reactors (NUREG-0123) and NRC Generic Letter 85-19, "Reporting Requirement on Primary Coolant Iodine Spikes." The staff also requested changes to the Limiting Conditions for Operation which are also given in NUREG-0123.

During a meeting of June 30, 1987, the staff requested resubmittal of the proposed changes with the following provisions:

1. Delete words "if inhaled by an adult" from the definition of Dose Equivalent (D.E.) I-131.
2. Incorporate provisions for performing additional analyses at least once per four hours until the specific activity of the primary coolant is restored to within its limit when the coolant activity exceeds 0.2 uCi/gram D.E. I-131.
3. Eliminate provisions for allowing a second sample, and place the reactor in hot shutdown within 12 hours when the coolant activity exceeds 4 uCi/gram D.E. I-131.
4. Add sampling and analysis requirements for iodine following changes in thermal power or offgas level.

Therefore, the licensee has prepared TSCR 148 and TSCR 148, Revision 1 in response to the staff's requests described above.

This change request provides definitions, limiting conditions for operation, surveillance and an annual reporting requirement to incorporate the applicable requirements provided in the Standard Technical Specifications for General Electric Boiling Water Reactors and NRC Generic Letter 85-19. The licensee has determined that this change request involves no significant hazards considerations in that operation of the Oyster Creek Plant in accordance with the proposed amendment will:

1. Not involve a significant increase in the probability of an accident previously evaluated, because the primary coolant activity is not an initiator of an accident. Also, the proposed change will not increase the consequences of an accident, because the proposed change, a reduction of the primary coolant activity limit, will not result in an increased amount of radioactive release for design basis accidents previously evaluated; or

2. Not create the probability of a new or different kind of accident from any accident previously evaluated because a bounding design basis accident associated with changes in the primary coolant activity level was already evaluated and reported in the updated Final Safety Analysis Report (FSAR) (i.e., Control Rod Drop Accident); or

3. Not involve a significant reduction in a margin of safety because a more restrictive limit for the primary coolant radio-iodine activity will increase a margin of safety.

The staff has reviewed the licensee's no significant hazard considerations above and is in agreement with the conclusions drawn by the licensee.

Therefore, because the licensee's request meets the above three criteria in 10 CFR 50.92(c), the staff proposed to determine that the licensee's proposed change does not involve a significant hazards consideration.

Local Public Document Room

location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 19, 1988

Description of amendment request: The amendment would modify the Technical Specifications (TS) to (1) add an annual time limit on containment venting and purging via the Standby Gas Treatment System, and (2) add Limiting Conditions for Operation and Surveillance Requirements for devices installed in certain large containment isolation valves for the purposes of insuring capability to close against the dynamic forces of a loss-of-coolant accident (LOCA).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include, "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, e.g. a more stringent surveillance requirement." The proposed amendment would add additional limitations and requirements for which no comparable

requirements are presently specified. These new requirements will provide additional assurance of containment integrity and continued vent/purge capability in event of a LOCA which occurs during routine vent/purge operations.

Since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room

location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Jose A. Calvo

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: April 25, 1988

Description of amendment request: By application for license amendment dated April 25, 1988, Northeast Nuclear Energy Company, et al. (the licensee), requested a change to Technical Specifications (TS) 3.4.4, "Pressurizer," for Millstone Unit 2. The proposed change to the TS would require that the 130KW of operable pressurizer heaters be, "...capable of being supplied by emergency power."

Basis for proposed no significant hazards consideration determination: The requirement that 130KW of pressurizer heaters, capable of being supplied by emergency power, be operable, had previously been incorporated in the Millstone Unit 2 TS. In the course of issuing License Amendment No. 97 on August 24, 1984, the words "...capable of being supplied by emergency power" were inadvertently deleted. The proposed change to the TS would correct the error introduced with issuance of License Amendment No. 97.

On March 6, 1986, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (i) which involves "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an

error, or a change in nomenclature." The proposed change to TS 3.4.4 is within scope of example (i) in that it would correct an error in the TS.

Based on the above, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room

location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: April 15, 1988

Description of amendment request: The proposed amendment would change Technical Specification Section 3/4.6.3 Containment Isolation Valves to permit the plant to enter an operational mode when the plant has inoperable containment isolation valves that have been compensated for by compliance with action statement b. and c. These action statements require that each affected penetration be isolated within four hours by use of at least one deactivated automatic valve secured in the isolation position or one closed manual valve or blind flange. Specifically, the change would indicate that the provisions of Specification 3.0.4 are not applicable to action statements b and c.

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.92, the licensee has reviewed the proposed change and has concluded that it does not involve a significant hazards consideration because the change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change has no impact on the probability of an accident. Allowing plant startup with isolation valves closed and de-energized or the penetration isolated with a blind flange provides at least the same level of assurance that the affected penetrations will be isolated when required as normal operating conditions. Because the ability to isolate the containment is not adversely affected, there can be no adverse impact on the consequences of any accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change will not affect plant response in any way, and there are no new failure modes associated with the change that could create a new accident. The specific valves which are inoperable have no safety function other than containment isolation, which is satisfied by meeting the Action statements. These valves are not associated with a post accident situation.

3. Involve a significant reduction in safety margin. The proposed change will apply only when the inoperable containment isolation valve(s) are isolated by use of at least one deactivated automatic valve secured in the closed position or by use of a closed manual valve or blind flange. In this position, the penetration is isolated. Therefore, the proposed change does not have any adverse impact on the containment boundary. Allowing plant startup in this configuration involves no adverse impact. The basis of Technical Specification 3.6.3 is to ensure that the containment can be isolated from the outside atmosphere when required. Allowing plant start-up with affected penetrations isolated is consistent with the basis of this Technical Specification.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room
location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06103-3499.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stoltz

Northern States Power Company,
Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 1, 1988

Description of amendment request:
The proposed license amendment would revise the plant Technical Specifications (Appendix A to Facility Operating License No. DPR-22) to reflect an increase in the Boron-10 enrichment to 55 atom percent in the sodium pentaborate solution used for the Standby Liquid Control System (SLCS). This results in a solution concentration as low as 10.7% versus the minimum 13.7% concentration stipulated in 10 CFR 50.62. To maintain an equivalent injection capability, the effect of a higher atom percent Boron-10

enrichment and lower solution concentration is to reduce the system flow rate from 26 gpm to 24 gpm. The proposed amendment would delete the requirement for a mid-cycle sodium pentaborate solution surveillance due to the availability and planned use of pre-mixed and vendor certified solutions. This precludes the need for the licensee to mix the solution components (Boric acid and Borax) on site.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the Commission agrees, that the proposed Technical Specification changes for the SLCS do not constitute a significant hazards consideration for the following reasons:

1. The proposed amendment revises the Technical Specifications to reflect a sodium pentaborate solution which has a Boron-10 enrichment of 55 atom percent supplied by a vendor in its final form, and certified to the specified Boron-10 enrichment by the vendor. This change in no way detracts from the ability to meet the requirements of the Anticipated Transient Without Scram (ATWS) Rule. The proposed Technical Specification changes, with a decrease in the minimum pump flow rates and increase in the Boron-10 enrichment, maintain the ATWS Rule goal of reducing the time necessary to achieve plant cold shutdown. As such, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, or the ability of the SLCS to deal with an accident.

2. The proposed amendment does not result in any mechanical modification of the SLCS. Boron-10 is a stable isotope and no degradation of the enrichment level over time is expected. Other solution characteristics, such as concentration, are within the ranges of past operations. The minimum pump flow rate specified by the proposed changes is a return to the value contained in the Technical Specifications prior to the

implementation of the ATWS Rule. The requirement for a mid-cycle enrichment surveillance when new chemicals are added was instituted because of mixing of the individual solution components (that is enriched boric acid and borax) by the licensee on site. The sodium pentaborate will be supplied pre-mixed and certified by a vendor to the specified Boron-10 enrichment. This change eliminates the possibility of an accident at the plant site due to the mixing process. For these reasons, the proposed amendment does not create a new or different kind of accident from previously evaluated accidents.

3. The proposed amendment would not diminish the ability of the SLCS to meet its original design basis or the requirements of the ATWS Rule. The reduction in the minimum pump flow rate from 26 gpm to 24 gpm actually provides for additional margin in the pump flow rate. As such, the proposed change enhances rather than reduces the margin of safety.

Based on the above, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room

location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller, Acting Director

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: March 31, 1988

Description of amendment request:
The proposed amendment would revise Trojan Technical Specifications (TS) Section 6.0, "Administrative Controls" by deleting the organizational charts, Figure 6.2-1 "Offsite Organization," and Figure 6.2-2 "Facility Organization" from the TS. The TS would also be revised to provide a description of the general requirements for both facility and corporate organizations.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident

from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated since deletion of the organization charts from the Technical Specifications is administrative in nature and does not affect plant operation. The organizational requirements essential to safe operation are still contained in the Technical Specifications. In addition, a description of the organization and organization charts are provided in the Updated Final Safety Evaluation Report (UFSAR). Changes to the organizational structure are included in the annual updates to the UFSAR, and are also discussed in the licensee's changes to the Quality Assurance Program.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

The proposed changes do not involve a significant reduction in a margin of safety. PGE's QA programs and its use of only qualified personnel in positions of responsibility assures that safety functions performed by both facility and corporate organizations will continue to be performed at a high level of competence.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards considerations.

Local Public Document Room
location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 12, 1988

Description of amendment request: The proposed amendment would revise Trojan Technical Specification (TS) Tables 3.3-3, "Engineered Safety

Features Actuation System Instrumentation," and 3.3-9, "Remote Shutdown Monitoring Instrumentation" by renaming the shutdown panel outside of the control room from "C-160 Panel" (located in the Turbine Building) to "Remote Shutdown Station." This change is necessitated due to the removal of the C-160 panel from its present location, and the installation of its upgraded replacement at a different portion of the plant.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve a significant reduction in a margin of safety. The Commission has also provided guidance concerning the application of these standards by providing certain examples (March 6, 1986, 51 FR 7751). An example of an amendment that is considered not likely to involve a significant hazards consideration is Example (i) is a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the technical specification, correction of an error, or a change in nomenclature.

The proposed change involves the renaming of the shutdown panel outside of the control room, and eliminates the reference to its location. The surveillance and operability requirements of the remote shutdown panel as applied to the upgraded replacement remote shutdown panel remain unchanged.

The proposed change is editorial in nature and is considered to fall within the scope of the Commission's Example (i) cited above.

As such, the staff proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room
location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: March 15, 1988

Description of amendment request: The licensee has provided the following description of the changes to the Technical Specifications:

The existing Technical Specification 3.4.A requires that all the twenty ASME code approved main steam line safety valves be operable when the RCS temperature is above 350° F. The allowable out of service time for these safety valves is 48 hours. The proposed revision to Technical Specification 3.4.A and its associated Basis would allow plant operation with up to three inoperable main steam line safety valves per steam line provided the power range neutron flux high setpoint is reduced per Table 3.4-1.

There are five safety valves on each steam line; one 8 inch valve and four 10 inch valves. The relief capacities for the individual valves range from 540,000 to 823,000 1bm/hr. The total relieving capacity at full power is 3,777,000 1bm/hr per steam generator or 15,108,000 1bm/hr through all 20 valves. The total full power steam flow is 12,974,500 1bm/hr. Therefore, the total relieving of the 20 valves is 116% of the total secondary steam flow at 100% rated power (3025 Mwt).

The existing and proposed Technical Specifications ensure compliance with the ASME Code requirement on steam generators having 110% design steam flow rate relief capability. In order to satisfy the relief capability requirement during plant operations with inoperable safety valves, the total steam flow is reduced by decreasing the power level. The reduction in power level is ensured by reducing the power range neutron flux high setpoint.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee made the following analysis of these changes:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated? The proposed changes do not involve a significant increase in the probability or the consequences of an accident previously evaluated. The ASME Code requires that the steam generators have the capability to remove 110% of the design steam flow rate. The Loss of External Electrical Load Transient poses the greatest challenge to the main steam line safety valves. The worst case Loss of Load Transient analyzed in the FSAR results in the relief of 69% of the steam flow at 100% rated power. The reduction in power level compensates for the reduction in steam relief capability with inoperable main steam safety valves. The ASME relief capability requirements are satisfied by reducing the power range neutron flux high setpoint per Technical Specification Table 3.4-1. The proposed license amendment does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated? The proposed amendment involves a reduction in operating power level in order to compensate for a reduction in steam relief capability posed by inoperable safety valves. Plant operations at a reduced power level does not create the possibility of a new or different kind of accident from an accident previously evaluated. The transients analyzed in the FSAR bound plant operations at a reduced power level.

3. Does the proposed amendment involve a significant reduction in a margin of safety? As the reduction in power dictated by Table 3.4-1 compensates for the reduction in relief capability posed by the inoperable safety valves, the margin of safety is maintained. Therefore, the proposed amendment does not involve a reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room
location: White Plains Public Library,
100 Martine Avenue, White Plains, New
York 10601.

Attorney for licensee: Mr. Charles M.
Pratt, 10 Columbus Circle, New York,
New York 10019.

NRC Project Director: Robert A.
Capra, Director

**Toledo Edison Company and The
Cleveland Electric Illuminating
Company, Docket No. 50-346, Davis-
Besse Nuclear Power Station, Unit No. 1,
Ottawa County, Ohio**

Date of amendment request: April 22,
1988

Description of amendment request:
The proposed amendment would revise the Technical Specifications (TS's) relating to organization, both with respect to offsite and facility (onsite) staff. Specifically, the proposed amendment would delete Figures 6.2-1 and 6.2-2 from TS Section 6.2. In addition, TS Section 6.2.1 would be modified to include certain aspects of organization which are important to safety and must be included in the TS's. These include requirements that lines of authority, responsibility, and communications be established and documented; assignment of corporate and operational responsibility and authority; and provisions for independence from operational pressure for certain operating staff. TS Section 6.2.2 would be modified to specify that the Assistant Plant Manager for Operations and the Operations Superintendent shall hold senior reactor operator licenses. The proposed changes are in accordance with the guidance provided in NRC Generic Letter 88-06.

*Basis for proposed no significant
hazards consideration determination:*
The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that the operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a) and has made a proposed determination that:

A. The proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes would not modify any accident conditions or assumptions. The proposed changes meet the requirements of 10 CFR 50.36 by providing for the organization and

management to ensure safe operation of the facility.

B. The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes would not affect any system, equipment, or procedure. The organization charts would be replaced with general requirements that include the essence of the organizational structure in the TS's.

C. The changes would not involve a significant reduction in a margin of safety because the proposed changes would not affect any operating practices, limits or equipment important to safety.

Local Public Document Room

location: University of Toledo Library,
Documents Department, 2801 Bancroft
Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald
Charnoff, Esquire, Shaw, Pittman, Potts
and Trowbridge, 2300 N Street, NW.,
Washington, DC 20037.

NRC Project Director: Kenneth E.
Perkins.

**Union Electric Company, Docket No. 50-
483, Callaway Plant, Unit 1, Callaway
County, Missouri**

Date of amendment request:
November 21, 1986 and November 17,
1987

Brief description of amendment: In accordance with the requirements of 10 CFR 73.55, the licensee submitted an amendment to the Physical Security Plan for the Callaway Plant to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.E of Facility Operating License No. NPF-30 to require compliance with the revised Plan.

*Basis for proposed no significant
hazards consideration determination:*
On August 4, 1986 (51 FR 27817 and
27822), the Nuclear Regulatory
Commission amended Part 73 of its
regulations, "Physical Protection of
Plants and Materials," to clarify plant
security requirements to afford an
increased assurance of plant safety. The
amended regulations required that each
nuclear power reactor licensee submit
proposed amendments to its security
plan to implement the revised provisions
of 10 CFR 73.55. The licensee submitted
its revised plan on November 21, 1986,
and November 17, 1987, to satisfy the
requirements of the amended
regulations. The Commission proposes
to amend the license to reference the
revised plan.

In the Supplementary Materials
accompanying the amended regulations,
the Commission indicated that it was

amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room
Location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Kenneth E. Perkins.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 2, 1986, October 9, 1987 and March 16, 1988

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensee submitted an amendment to the Physical Security Plan for the Vermont Yankee Nuclear Power Station to reflect recent changes to that regulation. The proposed amendment would modify paragraphs 3.G. and 3.H. of Facility Operating License No. DPR-28 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its

regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised plan on March 16, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the license to reference the revised plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards consideration is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room
Location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A Ritscher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Richard H. Wessman, Director

Virginia Electric and Power Company, Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: January 14, 1988

Description of amendment request: The proposed changes would allow the widening of the axial flux difference bands from the current $\pm 5\%$ about a target value to $+6\%$ to -15% at 100%

power and $+20\%$ to -28% at 50% power. The proposed changes would provide additional operating flexibility during return to power after trips near the end of the NA-1 Cycle No. 7. The proposed changes for NA-1 have already been approved for NA-2 by Amendment No. 64 to Facility Operating License NPF-7 issued April 14, 1986.

The heat flux hot channel factor (FQ) operating limit specified in the NA-1&2 Technical Specifications (TS) is established by LOCA/ECCS analyses performed in accordance with 10 CFR 50, Appendix K. These analyses show that if the FQ limit is not exceeded, the predicted LOCA peak clad temperature will not exceed the 2200°F limit specified in the Final ECCS Acceptance Criteria. The TS also establish the required method for verification that the actual peaking factor realized during operation will not exceed the axially dependent peaking factor ($F_{Q(Z)}$) limit. This verification is currently performed by combining the axially dependent radial peaking factor, $F_{xy}(Z)$, which is determined by periodic surveillance with the core flux monitoring system, with an analytically determined axial peaking factor ($P_{Z(Z)}$). The determination of $P_{Z(Z)}$ involves evaluating various plant operating maneuvers such as load following. During Constant Axial Offset Control (CAOC) operation, the measured core axial flux difference (AFD) is maintained within a fixed band ($\pm 5\%$) of a target value. The target AFD is established by equilibrium operating conditions.

The proposed changes will replace the CAOC AFD limits with a set of limits established by the Relaxed Power Distribution Control (RPDC) methodology discussed in the licensee's report entitled, "Relaxed Power Distribution Control Methodology and Associated FQ Surveillance Technical Specifications" dated March 1986. These changes, as noted above, have already been approved for NA-2. The important feature of the RPDC strategy is that, instead of analytically verifying the peaking factor (FQ) margin for a fixed AFD limit band, the AFD band is varied until the available FQ margin is utilized. Because a wider range of axial shapes can be realized under normal RPDC operation, additional analyses must be performed to verify that the overtemperature delta-T (OTDT) and overpower delta-T (OPDT) trips continue to provide adequate DNB and local overpower (high kw/ft) protection over the entire range of anticipated Condition II events. In addition, the shapes are evaluated as potential

preconditions for the complete loss of flow accident, to ensure that no DNB violations would occur during the bounding, non-OTDT-protection accident. The methodology for performing this verification is discussed in further detail in the licensee's RPDC report.

Additionally, the current requirement for monitoring the axially dependent radial peaking factor, $F_{xy}(Z)$, is being replaced by a requirement to monitor the total peaking factor $F_Q(Z)$. This is accomplished by taking a full core flux map under equilibrium conditions and increasing the measured value by appropriate factors to account for manufacturing tolerances and measurement uncertainties. Finally, since $F_Q(Z)$ is measured under equilibrium conditions, a nonequilibrium factor, $N(Z)$, is applied. $N(Z)$ accounts for the maximum potential increase in local peaking which could occur during transient, nonequilibrium operation. In accounting for transient effects, $N(Z)$ thus has a function which is similar to $P(Z)$ in the current approach. The difference is that where $P(Z)$ is a nonequilibrium axial peaking factor, $N(Z)$ envelopes the potential equilibrium-to-nonequilibrium F_Q increase and accounts for both axial and radial zenon and power redistribution effects.

The licensee has performed a detailed review of the impact of operation with relaxed power distribution control/ F_Q surveillance on the various accident scenarios discussed in Chapter 15 of the NA-1&2 UFSAR. Specifically, the impact of the wider axial flux difference on key safety parameters which could influence accident analysis results has been assessed. Among those parameters considered are: trip reactivity, both total value and reactivity as a function of rod insertion; shutdown margin; reactivity insertion rates due to rod withdrawal from subcritical and at power; and rod worths and/or peaking factors for ejected, dropped or misaligned control rods.

The NA-1 Cycle 7 reload core design has been evaluated for operation under the proposed RPDC TS in accordance with the licensee's RPDC methodology. The analysis included examination of the LOCA and complete Loss of Flow Accident (LOFA) preconditions, the peak linear power (kw/ft), the overtemperature delta-T $f(\Delta T)$ function and the fuel rod design criteria. The appropriate Core Surveillance Report and AFD limits were also generated. These analyses assumed implementation after 3000 MWD/MTU burnup; the analyses for subsequent

cycles will support RPDC operation throughout the entire cycle. The analysis results yielded two conclusions: (1) none of the normal operation conditions allowed by RPDC were found to violate the key safety criteria, and (2) all of the Condition II events examined in the Final Safety Analysis Report (FSAR) were shown to yield acceptable results when initiated from any of these normal operation conditions. The RPDC bands were thus found to be an acceptable operating space.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed changes would not involve significant hazards considerations.

DNB, linear power and clad integrity criteria.

Therefore, the proposed changes meet the criteria specified in 10 CFR Part 50.92(c) and, thus, the NRC staff proposes to determine that the proposed changes involve no significant hazards considerations, and that operation of the facility in accordance with the proposed changes would not involve significant hazards considerations.

Local Public Document Room

location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 30, 1988

Description of amendment request: The proposed changes to the NA-1&2 Technical Specifications (TS) would add incore thermocouples in the Accident Monitoring Instrumentation specified in Tables 3.3-10 and 4.3-7. The proposed changes are in accordance with the requirements of NUREG-0737, Item II.F.2, "Instrumentation for Detection of Inadequate Core Cooling," and NRC Generic Letter 83-37, "NUREG-0737 Technical Specifications." Specifically, the proposed changes would add incore thermocouples to the NA-1&2 TS Table 3.3-10, Accident Monitoring Instrumentation and require four thermocouples per core quadrant for operability determination while allowing two thermocouples per quadrant as the minimum number of operable channels for operation. Also, the incore thermocouples would be added to the NA-1&2 TS Table 4.3-7, Accident Monitoring Instrumentation Surveillance Requirements, requiring a "Channel Check" on a monthly basis and a "Channel Calibration" at each refueling. These changes conform to the NRC sample as provided in Enclosure 3 to Generic Letter 83-37, pages 15 and 16.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes involve only a relaxation of the limits in axial power distribution skewing which has been previously reviewed and approved by the NRC staff for application to NA-2. Furthermore, the approved RPDC analysis procedures and continued application of current reload design and safety analysis methodology will ensure that the UFSAR accident analyses remain bounding.

2. Involve any alterations to the physical plant which introduce any new or unique operational modes or accident precursors. Thus, the possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report is not being created by these proposed changes.

3. Involve a significant reduction in the margin of safety. While a relaxation of the axial offset operating limits is realized, the margin of safety as defined in the basis for any Technical Specification is not reduced by these proposed changes; the margins of safety are preserved by the imposition of a frequent F_Q surveillance requirement, by effectively reducing the limit on measured equilibrium F_Q by a conservative nonequilibrium factor, $N(Z)$, and by reload verifications of the

not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The proposed changes would not:

(1) Involve a significant increase in the probability or consequence[s] of an accident previously evaluated, because the change[s] will require additional controls and surveillances in the operation of [NA-1&2] and [are] in accordance with Generic Letter 83-37 and NUREG-0737. The operability requirements and the surveillance requirements for the accident monitoring instrumentation have not been decreased by [these] change[s].

(2) Create the possibility of a new or different kind of accident from any accident previously identified, because the change[s] will require additional controls and surveillances in the operation of [NA-1&2] and [are] in accordance with Generic Letter 83-37 and NUREG-0737. The proposed change[s] [do] not involve any alterations to plant equipment or procedures which would introduce any new or unique operational modes or accident precursors.

(3) Involve a significant reduction in a margin of safety, because the change[s] will require additional controls and surveillances in the operation of [NA-1&2] and [are] in accordance with Generic Letter 83-37 and NUREG-0737. The results of the accident analyses performed in the UFSAR will continue to bound operation.

Therefore, the proposed changes meet the criteria specified in 10 CFR 50.92(c) and, thus, the NRC staff proposes to determine that the proposed changes involve no significant hazards considerations, and that operation of the facilities in accordance with the proposed changes would not involve significant hazards considerations.

Local Public Document Room
location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests:
December 11, 1986, October 16, 1987 and February 24, 1988.

Description of amendment requests: In accordance with the requirements of 10 CFR 73.55, the Virginia Electric and Power Company submitted amendments to the Physical Security Plan for the Surry Power Station, Units No. 1 and No. 2 to reflect recent changes to that regulation. The proposed amendments would modify paragraph 3.J of Facility Operating Licenses No. DPR-32 and DPR-37 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised Plan on December 11, 1986, October 16, 1987 and February 24, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the licenses to reference the revised Plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and example of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii), "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room
location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: March 30, 1988

Description of amendment requests: The proposed change would clarify Technical Specification (TS) 6.5.B.7, "Station Operating Records" for Surry Units 1 and 2. Currently, TS 6.5.B.7 requires that the primary records of inservice inspections performed, including photographs of the surface of those welds inspected by a visual or surface examination, be retained during the life of the plant. The proposed change would clarify the requirement to retain the radiographs and photographs when taken pursuant to the requirements of Section XI of the ASME Code.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed change in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve significant hazards considerations. The licensee's analysis is provided below.

This proposed change to the Surry Technical Specifications has been reviewed pursuant to the requirements of 10 CFR 50.92 and it has been determined that a significant

safety hazard is not created. Specifically, the operation of Surry Power Station with the proposed amendment[s] will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendment[s] [do] not affect plant operation nor [do they] alter the requirements for inservice inspection methods, scope, or frequency. Only the requirements for retaining records are clarified in [these] amendment[s].

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment[s] [do] not affect the material or physical condition of the station systems, structures or components. There is no new or different kind of accident created since the amendment[s] [are] a clarification of previous requirements.

3. Involve a significant reduction in the margin of safety. The proposed amendment[s] [do] not affect the margin of safety since there is no reduction in the requirements to conduct an inservice inspection program in accordance with the ASME Section XI Code, the augmented inspection requirements of the Technical Specification and the ASLB decisions.

After a preliminary review of the licensee's analysis, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve significant hazards considerations.

Local Public Document Room
location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Yankee Atomic Electric Company
Docket No. 50-029 Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: April 4, 1988

Description of amendment request: The proposed amendment would make the battery charger output Technical Specification for Charger No. 3 the same as for chargers No. 1 and No. 2. This is a result of the planned replacement of old Battery No. 3 with a new upgraded battery.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed

amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the April 4, 1988 letter states the following:

This change has been evaluated and determined to involve no significant hazards consideration. As such, this proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The new upgraded battery and charger perform the same function as the present components. The new battery has added capability to power all the existing dc loads and future loads, if needed. The new charger has adequate capability to power normal dc loads and fully recharge the new battery, from a complete discharge state, within an acceptable time. The installation of an upgraded Battery No. 3 and charger adds further assurance that this equipment will perform as designed and thus does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The installation of an upgraded Battery No. 3 and charger will enhance the capability of the DC System, since on a loss of ac all safety and nonsafety dc loads could be powered for a substantially longer time. The impact of the new larger charger on the existing AC System has been evaluated and found within the acceptable limits. The change of the new charger's power supply enhances the redundancy of the DC System in that each battery charger will be fed from an independent power source. The installation of an upgraded Battery No. 3 and charger will enhance the capability of the 125 V dc Bus No. 3 to perform its functions and thus does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The new battery and charger perform the same function as the present components, and their capabilities are substantially higher than the present equipment. Since this proposed change will result in an increase in the size and capability of Battery No. 3 and charger, it does not involve a significant reduction in a margin of safety.

Based on the considerations contained herein, it is concluded that there is reasonable assurance that operation of the Yankee plant, consistent with the proposed Technical Specifications, will not endanger the health and safety of the public. This proposed change has been reviewed by the Nuclear Safety Audit and Review Committee.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make no significant hazards consideration determination.

Local Public Document Room
location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Richard H. Wessman

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: April 20, 1988

Brief description of amendment: The proposed license amendment would change Technical Specification Table 4.3.1.1-1, "Reactor Protection System Instrumentation Surveillance Requirements," to delete the Daily Channel Check requirements of Note (g) for the Average Power Range Monitor Flow Biased Neutron Flux - High Scram Functional Unit.

Date of publication of individual notice in Federal Register: April 29, 1988 (53 FR 15476)

Expiration date of individual notice: May 31, 1988

Local Public Document Room
location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 8, 1988

Brief description of amendment request: The proposed amendment would delete reference to recirculation fans 2V418 A&B and fan associated breakers, and add fans 2V415 A&B and the associated breakers to the Technical Specifications.

Date of publication of individual notice in Federal Register: April 15, 1988 (53 FR 12625)

Expiration date of individual notice: May 16, 1988

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the *Federal Register* as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al., Docket No. STN 50-528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Dates of application for amendment: January 21, and February 2, 1988

Brief description of amendment: The amendment revises Specification 3/4.4.8.3 to add a footnote to the applicability of the Specification for RCS temperatures between 255° F and 295° F. The amendment also clarifies the surveillance requirements and bases section for Specification 4.11.2.5 dealing with the monitoring of hydrogen and oxygen gases in the waste gas holdup system and with the automatic control features of the system. These changes make those Specifications consistent with the current Specifications for Palo Verde, Units 2 and 3.

Date of issuance: May 5, 1988

Effective date: May 5, 1988

Amendment No.: 31

Facility Operating License No. NPF-41: Amendment changed the Technical Specifications.

Date of initial notice in Federal Register: March 9, 1988 (53 FR 7585). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 5, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Dates of application for amendment: December 3, 1987, and supplemental documents dated December 2, 1987 and February 4, 1988.

Brief description of amendment: The amendment revises several portions of the Technical Specifications to incorporate changes in support of Cycle

2 operation. One of the proposed changes to the Technical Specifications in the amendment request, relating to Azimuthal tilt limits, is still under review. The completion of review for this request, which is not required for restart of Palo Verde, Unit 2, is pending on receipt of the additional information.

Date of issuance: May 5, 1988

Effective date: May 5, 1988

Amendment No.: 19

Facility Operating License No. NPF-51: Amendment changed the Technical Specifications.

Date of initial notice in Federal Register: January 27, 1988 (53 FR 2307). The supplemental letters did not change the initial proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 5, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Dates of applications for amendments: October 1, 1986 and January 22, 1987, as supplemented on February 16, and February 26, 1988.

Brief description of amendments: These amendments (1) Modify the Unit 1 TS Limiting Condition For Operation 3.3.3.2 for incore detectors by placing additional restrictions upon operability above those that were required for operation during the previous cycle (Cycle 8); (2) Change the surveillance periods of the Units 1 and 2 TS Surveillance Requirements (SRs) 4.1.3.4.c (demonstration of full length control element assembly drop time) and 4.3.3.2.b (incore detector channel calibration) from at least once per 18 months to at least once per refueling interval, where a refueling interval shall be defined as 24 months; (3) Modify the Units 1 and 2 TS SR 4.7.11.1.f.3 for cycling fire suppression water system flow path valves that are not testable during plant operation; and 4.7.11.4.b, for the inspection, reracking and replacement of degraded coupling gaskets for fire hoses inside containment, by extending their associated surveillance intervals from at least once every 18 months to at least once per refueling interval (24 months); (4) Rerumber the Units 1 and 2 TS SR 4.7.11.1.f.3 as 4.7.11.1.g(2); TS SR 4.7.11.1.g as 4.7.11.1.g(1); and TS SR

4.7.11.1.1.f.4 as 4.7.11.1.1.f.3 and change the Units 1 and 2 TS SRs 4.7.11.1.1.g (fire suppression system flow test), 4.7.11.2.b and c (spray and sprinkler system functional test), and 4.7.11.4.c (containment fire hose stations, operability and hydrostatic tests) by making administrative changes and more restrictive changes to the surveillance requirements; and (5) Change the Units 1 and 2 TS SR 4.4.10.1.2, "Augmented Inservice Inspection Program for Main Steam and Main Feedwater Piping," to update the required ASME Boiler and Pressure Vessel Code, Section XI, for Class 2 components, from the 1974 Edition with Addenda through Summer 1975 to the 1983 Edition with Addenda through Summer 1983. In addition TS SR 4.4.10.1.2.a would be deleted and TS SR 4.4.10.1.2.b would be renumbered as 4.4.10.1.2 and would be clarified to reflect a new 10-year inservice inspection interval.

Date of issuance: May 3, 1988

Effective date: May 3, 1988

Amendment Nos.: 129 and 111

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 28, 1987 (52 FR 2870)

and January 13, 1988 (53 FR 819) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 3, 1988.

No significant hazards consideration comments received: No

Local Public Document Room

location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: January 20, 1988

Brief description of amendment: This amendment changes Technical Specification (TS) Section 6.5.1.6.5 to increase the quorum requirement of the Plant Nuclear Safety Committee. It also includes editorial changes in TS Section 6.7.1.

Date of issuance: April 28, 1988

Effective date: April 28, 1988

Amendment No. 117

Facility Operating License No. DPR-23: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: February 24, 1988 (53 FR 5488)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1988.

No significant hazards consideration comments received: No

Local Public Document Room
location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1983, as supplemented October 29, 1984, August 14, 1985, and January 3, 1986.

Brief description of amendment: The amendment revises the Technical Specifications concerning refueling. The change consists of distributing the original specifications into three groups which apply to plant conditions significant to movement of heavy loads. In addition, requirements are added concerning the availability of the RHR pumps and heat exchangers when fuel is in the reactor vessel and the reactor head bolts are less than fully tensioned.

Date of issuance: May 3, 1988

Effective date: May 3, 1988

Amendment No. 130

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 21, 1983 (48 FR 43133) and renoted October 9, 1985 (50 FR 41246) and March 26, 1986 (51 FR 10455). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 1988.

No significant hazards consideration comments received: No

Local Public Document Room

location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: November 12, 1987

Brief description of amendment: The amendment revises the Technical Specifications to impose revised and additional requirements on reactor coolant system pressure isolation valves, in accordance with the staff's Generic Letter 87-06.

Date of issuance: April 25, 1988

Effective date: April 25, 1988

Amendment No. 124

Facility Operating License No. DPR-66: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 28, 1987 (52 FR 48892) The Commission's related evaluation of the amendment is

contained in a Safety Evaluation dated April 25, 1988.

No significant hazards consideration comments received: No

Local Public Document Room
location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: February 22, 1988, as supplemented April 20, 1988.

Brief description of amendments: The amendment replaced the organization charts in the Technical Specifications with more general organizational requirements. Various title changes were also made to the Company Nuclear Review Board members. A Technical Specification was added which required the Operations Supervisor to hold a Senior Reactor Operator license.

Date of issuance: April 28, 1988

Effective Date: April 28, 1988

Amendment Nos.: 93 and 29

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal

Register: March 23, 1988 (53 FR 9503)

Additional information was submitted by letter dated April 20, 1988. The additional information did not change, in any way, the staff's initial proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 28, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: April 16, 1987

Brief description of amendments:

These amendments deleted the remaining Sections 1.0 and 5.0 of the Turkey Point Plant Environmental Technical Specifications and replaced them with an Environmental Protection Plan, which is incorporated by reference in the licenses.

Date of issuance: April 25, 1988

Effective date: April 25, 1988

Amendment Nos. 128 and 122

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 26, 1987 (52 FR 32202) The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated April 21, 1988 (53 FR 13204) and in a Safety Evaluation dated April 25, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: February 19, 1988, as supplemented April 22, 1988.

Brief description of amendments: These amendments replaced the organization charts in the Technical Specifications with more general organizational requirements. In addition, several other changes to Section 6 were made. Those include: changing references of "Vice President-Nuclear Operations" or "Group Vice President-Nuclear Energy" to "Senior Vice President-Nuclear" in six different places in the TS; clarification of "immediate" written notification to mean "within 24 hours" for a specific action identified; and finally, revision of the TS pertaining to the Company Nuclear Review Board (CNRB) to change one membership from "Chairman: Group Vice President - Nuclear Energy" to "Senior Vice President - Nuclear"; to change another membership from "Vice President - Nuclear Operations" to "Vice President - Nuclear Energy"; to change a third membership from "Senior Project Manager - Power Plant Engineering" to "Manager - Power Plant Engineering"; and to not require a vice-president to be the CNRB chairman. By letter dated April 22, 1988, the licensee withdrew a portion of their original request related to the deletion of the requirement for the Operations Superintendent to be a licensed Senior Reactor Operator. This will be further addressed under separate correspondence.

Date of issuance: April 28, 1988

Effective date: April 28, 1988

Amendment Nos. 129 and 123

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9504). The licensee's letter dated April 22, 1988

provided supplemental information which did not alter the staff's no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 28, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: April 4, 1988

Brief description of amendments: The amendment revised Section 3.4.4 of the Technical Specifications related to the component cooling water system.

Date of issuance: April 29, 1988

Effective date: April 29, 1988

Amendment Nos. 130 and 124

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (53 FR 12203 dated April 13, 1988). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by May 13, 1988, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 29, 1988.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of application for amendment: December 21, 1987

Brief description of amendment: The amendment modified the Technical Specifications to require full stroke testing of the main steam isolation valves in accordance with the ASME Code, Section XI.

Date of issuance: May 2, 1988

Effective date: May 2, 1988

Amendment No.: 153

Facility Operating License No. DPR-57: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 9, 1988 (53 FR 7592) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: January 12, 1988

Brief description of amendment: Revises Technical Specifications to allow storage of new reactor fuel with enrichments up to and including 4.3 weight percent U-235.

Date of Issuance: April 25, 1988

Effective date: April 25, 1988

Amendment No.: 138

Facility Operating License No. DPR-50: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9505)

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 25, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: November 11, 1986 and November 6, 1987

Brief description of amendment: The amendment modified paragraph 2.D of the license to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of this amendment.

Date of issuance: April 26, 1988

Effective date: April 26, 1988

Amendment No.: 21

Facility Operating License No. NPF-
47. The amendment revised the License.
Date of initial notice in Federal Register: March 23, 1988 (53 FR 9506)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County Maine

Date of application for amendment: March 1, 1988

Brief description of amendment: Revises the Technical Specifications to update Figure 5.2-1 and Figure 5.2-2 in Technical Specification 5.2 "Organizational" to reflect a successional change in the offsite corporate organization and associated changes in the functional reporting structure.

Date of issuance: April 26, 1988

Effective date: April 26, 1988

Amendment No.: 104

Facility Operating License No. DPR-36. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9507)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 16, 1987 as supplemented by letters dated November 3, 1987 and January 18, 1988.

Brief description of amendment: The amendment changed License Condition Paragraph 2.C.3 to require compliance with the amended Physical Security Plan as amended to incorporate the requirements of 10 CFR 73.55. Consistent with the provisions of 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of this amendment.

Date of issuance: April 25, 1988

Effective date: April 25, 1988

Amendment No.: 119

Facility Operating License No. DPR-46. Amendment revised the license.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9508)

The Commission's related evaluation of the amendment is contained in a letter to Nebraska Public Power District dated April 25, 1988 and a Safeguards Evaluation Report dated April 25, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 28, 1987, as modified by letter dated February 22, 1988.

Brief description of amendment: The amendment changes the Technical Specifications to revise reactor vessel pressure-temperature limits for heatup and cooldown, normal operation, and pressure testing.

Date of issuance: April 26, 1988

Effective date: April 26, 1988

Amendment No.: 120

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 2, 1987 (52 FR 45889)
The February 22, 1988 submittal provided additional clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 8, 1988

Brief description of amendment: The amendment would allow the licensee to use annual average (rather than real-time) meteorological dispersion factors to calculate doses, and corrects and clarifies some parts of Technical Specifications 2.9.1 and 5.9.4. However, the requested changes for removing instantaneous release and removal of the radioactive effluent reports according to Regulatory Guide 1.21 was not approved by the staff.

Date of issuance: May 4, 1988

Effective date: 90 days from the date of issuance.

Amendment No.: 113

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9509)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: December 23, 1987

Brief description of amendment: Cycle 3 Reload changes to Technical Specifications.

Date of issuance: April 25, 1988

Effective date: Prior to startup for Cycle 3 operation

Amendment No.: 45

Facility Operating License No. NPF-22. This amendment revised the Technical Specifications to support the fuel reload and Cycle 3 operations.

Date of initial notice in Federal Register: January 27, 1988 (53 FR 2322)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: February 4, 1988

Brief description of amendment: The amendment revises Technical Specifications Section 3/4.7.3, "Component Cooling Water System" to be consistent with "split-train" operation.

Date of issuance: May 3, 1988

Effective date: May 3, 1988

Amendment No.: 141

Facilities Operating License No. NPF-1. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9511).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 1988.

No Significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207

NRC Project Director: George W. Knighton

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: October 15, 1986

Brief description of amendment: The amendment revises the allowable control rod drop time from 2.7 seconds to 2.44 seconds to be consistent with the safety analysis for the facility.

Date of issuance: April 26, 1988

Effective date: This license amendment is effective the date of issuance and must be fully implemented no later than 30 days from date of issuance.

Amendment No.: 100

Provisional Operating License No. DPR-13. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9515) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1988.

No significant hazards consideration comments received: No comments.

Local Public Document Room location: General Library, University of California, Post Office Box 19557, Irvine, California 92713.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 17, 1988

Brief description of amendments: The amendments revise the NA-1&2 TS, Section 6, Administrative Controls to reflect major reorganizational changes in the offsite and onsite corporate structure of Virginia Electric and Power Company. The changes (in total) are in conformance with either Generic Letter 88-06 (Removal of Organizational Charts from Technical Specifications) or more closely with the most current version of the Westinghouse Standard Technical Specifications, which appropriately apply to NA-1&2.

Date of issuance: April 28, 1988

Effective date: April 28, 1988

Amendment Nos.: 99 and 86

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 28, 1988 (53 FR 10005) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 28, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: March 17, 1988

Brief description of amendments: The amendments revise the Surry Units 1&2 Technical Specifications, Section 6, Administrative Controls to reflect major reorganizational changes in the offsite and onsite corporate structure of Virginia Electric and Power Company. The changes (in total) are in conformance with Generic Letter 88-06 (Removal of Organizational Charts from Technical Specifications) and also with the most current version of the Westinghouse Standard Technical Specifications, which appropriately apply to SPS-1&2.

Date of issuance: April 28, 1988

Effective date: April 28, 1988

Amendment Nos.: 119 and 119

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 28, 1988 (53 FR 10003). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these

amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may

be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Washington Public Power Supply System Docket No. 50-397, Washington Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: February 5, 1988

Brief description of amendment: The amendment revised Technical Specification 3/4.6.1.8, "Drywell and Suppression Chamber Purge System," to allow up to a total of 100 hours of purging in the current 365 days period. Telephone authorization was granted on an emergency basis on February 5 and confirmed by letter dated February 10, 1988.

Date of issuance: May 5, 1988

Effective date: February 5, 1988 through April 9, 1988

Amendment No.: 58

Facility Operating License No. NPF-21: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Washington, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 5, 1988.

Attorney for licensee: Nicholas Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Dated at Rockville, Maryland, this 12th day of May, 1988.

For the Nuclear Regulatory Commission

Walter Butler,

Acting Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation
[Doc. 88-10977 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-D

[Docket Nos. 50-603 and 50-604]

All Chemical Isotope Enrichment, Inc. (AlChemIE); Receipt of Antitrust Information

In accordance with section 105c of the Atomic Energy Act of 1954, as amended, All Chemical Isotope Enrichment, Inc. (AlChemIE) submitted combined construction permit/operating license applications to construct and operate two facilities for the purpose of enriching stable isotopes for medical, industrial and research applications on a world-wide basis. AlChemIE plans to use gas centrifuge machines obtained as surplus from the Department of Energy. Although the machines were designed and built for enriching uranium, AlChemIE does not intent to use them for this purpose.

AlChemIE is headquartered in Oak Ridge, Tennessee where one facility, the Centrifuge Plant Demonstration Facility (CPDF), is located. AlChemIE plans to lease this facility from the Department of Energy. The second plant is scheduled to be build in Oliver Springs, Tennessee.

The antitrust information accompanying AlChemIE's application is available for review at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555. Any person who wishes to express views pursuant to the antitrust issues raised in the instant application, should submit said views within sixty (60) days of the initial publication of this notice in the *Federal Register* to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation.

For the Nuclear Regulatory Commission.
Cecil O. Thomas,
Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.
[FR Doc. 88-11114 filed 5-17-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co., Pilgrim Nuclear Power Station; Exemption

Boston Edison Company (the licensee) is the holder of Facility Operating License No. DPR-35 which authorizes operation of Pilgrim Nuclear Power Station (the facility) at steady-state reactor power levels not in excess of 1998 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of a boiling water reactor located at the licensee's site in Plymouth, Massachusetts. The facility is currently shutdown for refueling and modifications.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.3 of Appendix E requires that each licensee at each site shall exercise with offsite authorities such that the State and local government emergency plans for each operating reactor site are exercised biennially, with full or partial participation by States with local governments, within the plume exposure pathway Emergency Planning Zone (EPZ).

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are: (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Section 50.12(a)(2)(v) of 10 CFR describes the special circumstances in that the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

III

By letter dated September 17, 1987, the licensee requested a one-time exemption

from the schedular requirements of section IV.F.3. of Appendix E. The last biennial emergency preparedness exercise was a full participation exercise conducted at the Pilgrim Nuclear Power Station on September 5, 1985. The licensee requested that an exemption be granted to allow the next biennial exercise to be deferred from 1987 to the second quarter of 1988.

The licensee stated that the Commonwealth of Massachusetts, the local governments within the EPZ and the two emergency reception center communities were in the process, with the assistance of the licensee, of implementing numerous improvements in their offsite emergency preparedness programs. These improvements included revision of the emergency plans of the local governments and the Commonwealth, the development of associated procedures, the development and implementation of training programs for officials and emergency personnel, and the upgrading of Emergency Operation Centers. The licensee expected the work to continue through early 1988. The licensee informed the NRC that in view of the extensive ongoing efforts, the Commonwealth and the local governments indicated that they were not able to fully participate in an exercise during calendar year 1987.

On December 16, 1987, the Nuclear Regulatory Commission published a *Federal Register* notice approving the exemption stipulating that the exercise be conducted prior to June 30, 1988. By letter dated April 14, 1988, the licensee requested an extension of the June 30, 1988 exemption deadline to permit conduct of the exercise prior to the end of 1988. The licensee stated that substantial progress has been made to improve emergency preparedness since the original exemption request; however, the extensive emergency planning efforts have taken longer than anticipated. The licensee has requested an extension of the exemption for the same special circumstances as existed at the time of the original exemption request.

Boston Edison is assisting the Commonwealth and the local authorities in the improvement of their emergency response programs. These efforts have included an updated evacuation time estimate study and traffic management plan, a study to identify public shelters for protecting the beach population, and the identification of and provision for the special needs and transportation dependents populations within the EPZ. The Commonwealth has forwarded drafts of the emergency plans for the

five EPZ towns and two reception center communities to FEMA for informal technical review. The licensee states that preparation of emergency plan implementing procedures is in process; draft procedures have been approved for one of the towns. A new training program for offsite emergency response personnel has been developed and training is being conducted. These efforts are extensive and the licensee states they will not be ready for an exercise until late 1988.

Onsite emergency preparedness has been evaluated by the NRC during inspections and exercises including the most recent onsite exercise conducted on December 9, 1987. The 1987 exercise included partial participation by the Commonwealth. The NRC inspection report for the 1987 exercise documented that Boston Edison's emergency response actions were adequate to provide protective measures for the health and safety of the public. The NRC inspection findings and the licensee's training drills provide assurance that the licensee has maintained a satisfactory capability to respond to an emergency at Pilgrim.

Since the last full participation biennial exercise at Pilgrim (in September 1985), the Commonwealth has participated on a limited basis with the licensee in the December 1986 exercise, the quarterly onsite drills in 1987 and the December 1987 exercise. The March and June 1987 drills also included limited participation by several of the towns within the EPZ. The towns within the EPZ have also cooperated in the full scale siren test conducted by FEMA in September 1986. The Commonwealth has also participated in full participation exercises at the Yankee Nuclear Power Station in June 1986 and at the Vermont Yankee Nuclear Generating Station on December 2, 1987.

IV

The requested exemption extension is a temporary one and is necessary because ongoing emergency preparedness efforts will not be completed before late 1988. The licensee has made a good faith effort to comply with the regulation by assisting in the ongoing improvements to the Commonwealth and local offsite emergency response programs. The extensive efforts required to upgrade the offsite plans, implement the changes and conduct training precluded the conduct of a meaningful and effective full participation exercise before June 30, 1988. This situation constitutes the special circumstances described in 10 CFR 50.12(a)(2)(v). In granting the

original exemption, the NRC stated its belief that the public health and safety would be better served by the conduct of a full participation exercise following the completion of efforts to improve the Commonwealth and local government emergency response programs. The emergency preparedness efforts are still not complete, thus, the NRC continues to believe that a full participation exercise should await completion of the planning efforts.

The Pilgrim plant is presently shutdown. The determination whether to restart the Pilgrim plant will involve an evaluation by the NRC of the status of the resolution of the emergency planning issues identified by FEMA. The safety of the resumption of plant operation will be addressed by the NRC staff before restart is approved.

For these reasons, the Commission has thus determined that, pursuant to 10 CFR 50.12, the exemption extension requested by the licensee's letter dated April 14, 1988, as discussed above, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission hereby approves the following exemption:

The Pilgrim Nuclear Power Station is exempt from the requirements of 10 CFR 50, Appendix E, Section IV.F.3 for the conduct of an offsite full participation emergency preparedness exercise in calendar year 1987, provided that this exercise be conducted prior to the end of 1988.

Pursuant to 10 CFR 51.32, the Commission had determined that the granting of this Exemption extension would have no significant impact on the environment (52 FR 46693, December 9, 1987). A copy of the licensee's request for exemption extension dated April 14, 1988 is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360. Copies may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

This Exemption extension is effective upon issuance.

Dated at Rockville, Maryland, this 11th day of May 1988.

For the Nuclear Regulatory Commission.
Walter R. Butler,
Acting Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-11115 Filed 5-17-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-335-OLA]

Florida Power and Light Co., (St. Lucie Plant, Unit No. 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding:

Thomas S. Moore, Chairman
Alan S. Rosenthal
Howard A. Wilber

Dated: May 11, 1988.

C. Jean Shoemaker,
Secretary to the Appeal Board.

[FR Doc. 88-11141 Filed 5-17-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 50-366]

Georgia Power Co. et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 154 to Facility Operating License No. DPR-57, and Amendment No. 92 to Facility Operating License No. NPF-5 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensee), which revised the Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (the facility) located in Appling County, Georgia. The amendments were effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the *Federal Register* on November 12, 1986, (51 FR 41036). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to the

action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated October 1972. [53 FR 16603]

For further details with respect to the action see: (1) The application for amendment dated September 9, 1986, as supplemented May 8 and December 15, 1987, (2) Amendment No. 154 to license No. DPR-57, (3) Amendment No. 92 to license No. NPF-5, (4) the Commission's related Safety Evaluation, and (5) the Environmental Assessment dated May 4, 1988. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, DC and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

A copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland, this 12th day of May 1988.

For the Nuclear Regulatory Commission.
Lawrence P. Crocker,
Project Manager, Project Directorate II-3,
Division of Reactor Projects-I/II.

[FRC Doc. 88-11116 Filed 5-17-88; 8:45 am]

BILLING CODE 6590-01-M

[Docket Nos. 50-275 and 50-323]

Pacific Gas and Electric Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-80 and DPR-82, issued to the Pacific Gas and Electric Company (the licensee), for operation of the Diablo Canyon Nuclear Power Plant, Units Nos. 1 and 2, located in San Luis Obispo County, California.

In accordance with the licensee's application for amendments dated January 22, 1988 (reference LAR 88-02), the amendments would change the surveillance test frequency in the Technical Specifications of the turbine stop valves, control valves and intercept valves associated with turbine overspeed protection. Surveillance testing of these valves is necessary to assure the performance of their safety function in protecting against the

consequences of a turbine missile ejection accident. Specifically, the surveillance test frequency would be changed from monthly to quarterly.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner

shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this *Federal Register* notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified to 10 CFR 2.714(a)(1)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the

amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 22, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 10th day of May, 1988.

For the Nuclear Regulatory Commission,
George Knighton,
*Director, Project Directorate V, Division of
Reactor Projects III, IV, V and Special
Projects.*

[FR Doc. 88-11117 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

Docket Nos. 50-344

**Portland General Electric Co.;
Consideration of Issuance of
Amendments to Facility Operating
Licenses and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-1 issued to Portland General Electric Company (the licensee), for operation of the Trojan Nuclear Power, located in Columbia County, Oregon. The request for amendment was submitted by letter dated March 1, 1988.

The proposed amendment would eliminate the uranium (U-235) fuel enrichment limit on reactor fuel assemblies, and would permit the storage of fuel with a maximum enrichment of 4.5 weight percent U-235 in the new fuel storage racks. The licensee is already authorized to store fuel assemblies of up to 4.5 weight percent U-235 in the spent fuel storage racks.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who

wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. A person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Leonard A. Girard, Esq., Portland General Electric Company, 121 SW. Salmon Street, Portland, Oregon 97204, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 1, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Portland State University Library, 731 SW. Harrison Street, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 5th day of May, 1988.

For the Nuclear Regulatory Commission.
George W. Knighton,
Director, Project Directorate V, Division of
Reactor Projects III, IV, V and Special
Projects.

[FR Doc. 88-11118 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-20594, License No. 35-
12120-02, EA 88-103]

**Radiology and Nuclear Medicine, Inc.;
Order Suspending License and Order
To Show Cause Why License Should
Not Be Revoked (Effective
Immediately)**

I

Radiology and Nuclear Medicine, Inc., Tulsa, Oklahoma, [licensee] is the holder of Byproduct Materials License No. 35-12120-02 issued by the Nuclear Regulatory Commission (NRC/Commission) on November 30, 1983. The last amendment, Amendment No. 3, to the license was issued on August 27, 1987. The license is due to expire on November 30, 1988. The license authorizes the licensee to (a) conduct specified diagnostic procedures, (b) use iodine-131 for the treatment of hyperthyroidism and cardiac dysfunction, and (c) use a dose calibrator reference standard.

II

On April 14, 1986, the Region IV staff performed an initial inspection at the licensee's facility, 2325 South Harvard, Suite 607-A, Room 101, Tulsa, Oklahoma. Previous attempts to inspect the licensee were unsuccessful due to two previous moves and inactivity of licensee. As a result of the April inspection, a Notice of Violation (NOV) was sent to the licensee on June 4, 1986. The NOV cited the licensee for failure to maintain area survey records; failure to equip personnel with the licensee's dosimetry; failure to conduct annual accuracy tests, quarterly linearity tests, and daily constancy checks on the dose calibrator; failure to calibrate the survey meter; failure to have certain documents posted; failure to have procedures for safely opening packages in which licensed material is received; failure to conduct leak testing on a sealed source; and failure to maintain quarterly inventory records of the calibration source. The letter transmitting the NOV also requested that the licensee describe actions to improve the effectiveness of management controls and perform and report on a close-out survey of the licensee's previous facility in Pryor, Oklahoma. The licensee's response to the NOV, dated August 28, 1986,

included corrective action to specifically replace the dose calibrator. The NRC indicated to the licensee by a telephone call on September 23, 1986 and letter dated September 23, 1986 that licensee's response was inadequate as to the closeout survey of its Pryor, Oklahoma facility and in addressing improvement in management control of the program. The response to this second letter was received on October 13, 1986 and acknowledged by the NRC on November 18, 1986.

On February 1, 1988, NRC received an allegation concerning improper activities being conducted by the licensee. On March 24, 1988, a Region IV inspector inspected the licensee's facility. During the inspection, the following apparent violations and deviation were discovered: Failure to equip personnel (e.g., Dr. Forsythe) with dosimetry (a repeat violation); failure to maintain personnel dosimetry records, failure to conduct annual accuracy tests, quarterly linearity tests, and daily constancy checks on the dose calibrator (a repeat violation); failure to calibrate the survey meter (a repeat violation); failure to have certain documents posted (a repeat violation); failure to conduct leak testing on a sealed source (a repeat violation); failure to perform quarterly inventory for the calibration source (a repeat violation); failure to conduct surveys of unrestricted areas; failure to perform activity measurements of radioisotopes administered to patients, and failure to replace the dose calibrator which had become inoperable during the period, April 14, 1986 to August 28, 1986, a deviation from licensee's committed corrective action outline in letter dated August 28, 1986. Several of the violations are repeats from the April 1986 inspection and have remained uncorrected since the 1986 inspection. A Confirmatory Action Letter was issued on April 1, 1988 to confirm, among other things, the licensee's agreement to suspend nuclear medicine activities until NRC concurred on the resumption of licensee's operations.

Since the issuance of the Confirmatory Action Letter five attempts were made to reach Dr. Forsythe by telephone to discuss the status of licensed activities. Messages left with the licensee's secretary or message recorder were not returned. On April 24, 1988, a certified letter (receipt requested) was sent inviting the licensee to an enforcement conference scheduled for May 5, 1988. The licensee received that letter on May 2, 1988. The letter also requested the licensee contact the Region IV office by 12:00 noon, May 4, 1988, to confirm his attendance at the

enforcement conference or arrange for a different mutually acceptable time. In addition, the letter informed the licensee that in the absence of attendance at the enforcement conference or contacting the NRC to arrange a different mutually acceptable time and date, NRC would proceed to issue the applicable enforcement action which might involve the formal suspension of the license. The licensee did not respond by the May 4, 1988 deadline. The NRC again attempted to contact Dr. Forsythe by telephone on May 5, 1988 to confirm the licensee's attendance at the enforcement conference. Dr. Forsythe neither responded to the telephone message requesting he call the NRC nor attended the enforcement conference on May 5, 1988.

III

Based on the NRC inspection of March 24, 1988, that resulted in the identification of numerous violations, several of which were uncorrected since the 1986 inspection and the licensee's failure to replace the inoperable dose calibrator, a deviation from his commitment to replace the dose calibrator in response to the June 4, 1986, NOV, the licensee has demonstrated an unwillingness to comply with regulatory requirements and safe work practices. The licensee has been unresponsive to our repeated requests to discuss issues associated with the license. Such performance cannot be tolerated. Therefore, I lack the requisite reasonable assurance that the licensee will comply with Commission requirements in the future. I have determined that the public health, safety, and interest require that the License No. 35-12120-02 should be formally suspended. I have further determined that, pursuant to 10 CFR 2.201(c), no prior notice is required and, pursuant to 10 CFR 2.202(f), that the suspension should be immediately effective pending further Order.

IV

In view of the foregoing and pursuant to sections 81, 161b, 181c, 181i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR § 2.202 and 10 CFR Part 35, it is hereby ordered, effective immediately, that:

A. Pending further Order activities authorized under License No. 35-12120-02 are hereby suspended and the licensee shall not receive or use byproduct material.

B. Within 2 days of the date of this Order, the licensee shall place all licensed material in its possession in

locked storage or transfer such material to an authorized recipient.

C. Within 10 days of the date of this Order, the licensee shall provide, in writing to the Region IV, office information regarding the disposition of all licensed material possessed at the time that this Order was issued.

D. The licensee shall show cause, in accordance with Section V of this Order, why License No. 35-12120-02 should not be revoked.

The Regional Administrator, Region IV, may in writing, relax or rescind any of the above provisions in section IV upon demonstration of good cause by the licensee.

V

Pursuant to 10 CFR 2.202(b), the licensee may show cause why this Order should not have been issued and why its license should not be revoked by filing a written answer under oath or affirmation within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions specified in section IV above. Upon consent of the licensee, to the provisions set forth in section IV of this Order, or upon the licensee's failure to file an answer within the specified time, the provisions specified in section IV above shall be final without further Order.

VI

Pursuant to 10 CFR 2.202(b), the licensee or any other person adversely affected by this Order may request a hearing within 20 days of this Order. Any answer to this Order or request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.
Dated at Rockville, Maryland, this 10th of May 1988.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FRC Doc. 88-11119 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co., San Onofre Nuclear Generating Station, Unit No. 1; Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-13 issued to Southern California Edison Company, *et al.* (the licensee), for operation of San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The request for amendment was submitted by letter dated April 15, 1988.

The proposed amendment is a request to revise sections 2, 3, and 4 of the Appendix A Technical Specifications to be consistent with a replacement upgrade of the San Onofre Nuclear Generating Station, Unit 1 (SONGS 1) Nuclear Instrumentation System (NIS). The modification would consist of a complete replacement of the NIS detectors, cabling, and signal processing equipment. Certain existing output devices and cable routing would be retained. The licensee stated that the proposed revisions to the technical specifications would assure appropriate limiting conditions for operation and surveillance requirements for the upgraded NIS. The safety analyses of transients and accidents are reviewed in the application. Because the new NIS detectors are not symmetrical with respect to the reactor, a revised dropped control rod analysis is presented which is the analysis most affected by the upgraded nuclear instrumentation system.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 18, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license, and any person whose interest may be affected by this proceeding and who

wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any

limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel—White Flint, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esq., Southern California Edison Company, P.O. Box 800, Rosemead, California 91770, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 12th day of May, 1988.

For The Nuclear Regulatory Commission,
Robert B. Samworth,

*Acting Project Director, Project Directorate V,
Division of Reactor Projects—III, IV, V and
Special Projects.*

[FR Doc. 88-11120 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397]

Washington Public Power Supply System; Consideration of Issuance of Amendment to Facility Operating, License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-21 issued to Washington Public Power Supply System (the licensee), for operation of Washington Nuclear Project 2 located in Benton County, Washington. The request for amendment was submitted by letter dated March 18, 1988 (Reference G02-88-065).

The proposed amendment would change Technical Specification section 4.8.2.1, "D.C. Sources Surveillance Requirements." Subsection d. of that section specifies the discharge amperage profiles which must be achievable for the DC batteries to be declared operable. The proposed amendment would revise those discharge amperage profiles. This change is being made because review of design documents indicated an inconsistency with the Technical Specifications. Battery load profiles were recalculated to provide the revised values.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel will rule on the request and/or

petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last

ten (10) days of the notice period, it is requested that the petitioner or representative of the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number, date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel—Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20055, and the Mr. Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and Mr. G. E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99332, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice of public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Rockville, Maryland, this 6th of May, 1988.

For the Nuclear Regulatory Commission,
George W. Knighton,
Director, Project Directorate V, Division of
Reactor Projects—III, IV, V and Special
Projects, Office of Nuclear Reactor
Regulation.

[FR Doc. 88-11121 Filed 5-17-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-24642]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 12, 1988.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 6, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70-7501)

Northeast Utilities ("NU"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, Holyoke Water Power Company ("HWP"), Canal Street, Holyoke, Massachusetts 01040, The Connecticut Light and Power Company ("CL&P"), Northeast Utilities Service Company ("NUSCO"), Northeast Nuclear Energy Company ("NNECO"), and Rocky River Realty ("RRR"), all of 107 Selden Street, Berlin, Connecticut 06037, subsidiaries of NU, (collectively, "Declarants") have filed a declaration pursuant to sections 6(a), 7, and 12(b) of the Act and Rule 45 thereunder.

By three prior Commission orders, the overall short-term borrowing authority

for the Declarants was limited, through December 31, 1988, to: NU-\$60 million; CL&P-\$300 million; WMECO-\$75 million; Holyoke-\$10 million; NNECO-\$50 million, RRR-\$10 million; NUSCO-\$40 million (December 24, 1986, February 10, 1987 and December 4, 1987; HCAR Nos. 24282, 24316 and 24516). Subject to that authority, the Declarants now seek authority to issue short-term notes pursuant to a proposed revolving credit agreement ("Credit Agreement") under which each Declarant may borrow and reborrow up to \$50 million, at any time and from time to time, up to an aggregate of \$50 million for all Declarants. The Credit Agreement will be entered into with a syndicate of regional commercial banks ("Banks"), for which The Connecticut Bank and Trust Company, N.A. is acting as agent ("Agent"). In addition, NU requests authority to guaranty the payment obligations under the Credit Agreement of NUSCO, NNECO, and RRR.

The term of the Credit Agreement will be three years, with a right for the Declarants, with the consent of all Banks, to extend the term on a year-by-year basis up to a maximum of seven years. All borrowings under the Credit Agreement will be short-term borrowings of six months or less and will be on a revolving basis. The borrowings will be evidenced by a note delivered to each Bank executed on behalf of each borrower, for the amount of that Bank's commitment. Each loan will bear interest according to the type of loan selected, which may be either a LIBOR Loan of 1, 2, 3, or 6 month maturity, or a Prime Rate Loan of up to 90 days, each type of loan, as defined in the Credit Agreement.

Consolidated Natural Gas Company, et al. (70-7516)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiaries, CNG Coal Company, CNG Energy Company, CNG Research Company, CNG Trading Company, Consolidated Natural Gas Service Company, Inc., The Peoples Natural Gas Company, all of the foregoing located at CNG Tower, Pittsburgh, Pennsylvania 15222-3199; CNG Development Company, One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244; CNG Producing Company, One Canal Place, Suite 3100, New Orleans, Louisiana 70130; CHG Transmission Corporation 445 West Main Street, Clarksburg, West Virginia 26301; Hope Gas Inc., National Center West, Clarksburg, West Virginia 26301; The East Ohio Gas Company, The River Gas Company, 1717 East Ninth Street,

Cleveland, Ohio 44115; and West Ohio Gas Company, 504 Colonial Building, Lima, Ohio 45802 (collectively "Subsidiary Companies"), have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45 and 50(a)(5) hereunder.

Consolidated proposes, for intra-system financings through June 15, 1989, to issue and sell up to \$400 million of either domestic commercial paper and/or Euro-commercial paper to dealers pursuant to an exception from competitive bidding. To the extent it becomes impractical to issue commercial paper, Consolidated proposes to issue and sell up to \$400 million unsecured short-term notes to banks. If not needed for back-up of commercial paper, a bank line of \$175 million of unsecured short-term notes could also be used to finance gas storage inventories and other working capital requirements of the Subsidiary Companies.

It is also proposed that: (1) Consolidated make up to \$749,500,000 in open account advances to certain Subsidiary Companies; (2) Consolidated acquire and certain Subsidiary Companies issue up to \$200 million in long-term non-negotiable notes; (3) Consolidated make revolving credit advances not to exceed \$250 million to certain Subsidiary Companies; (4) Consolidated acquire from, and CNG Coal Company, CNG Development Company, CNG Producing Company and CNG Research Company and CNG Research Company issue, respectively, an aggregate of \$91,200,000 in common stock at \$100 par value; and that (5) CNG Development's certificate of incorporation be amended to increase its authorized capital stock from 1,100,000 shares to 1,400,000 shares of common stock at \$100 par value.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-11106 Filed 5-17-88; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-25694; File No. SR-NYSE-88-14]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Specialists Post Wires

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1988, the New

York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to further amend proposed Rule 36.30.¹ As originally proposed, Rule 36.30 was intended to codify existing Exchange policy as to the use of telephone wires connecting the trading posts of the specialists with off-floor locations by permitting specialist units to install telephone lines to connect them with their off-floor offices or clearing firm. The current proposal would further amend the language of proposed Rule 36.30 to permit, with Exchange approval, a specialist unit to use the telephone line at its trading post location to enter options or futures hedging orders through a member (on the floor) of an options or futures exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—The purpose of the proposed rule change is to provide a faster means and to expand the Specialist's ability to enter options or futures hedging orders from its post

¹ The proposed NYSE Rule 36.30, which this filing would amend, was submitted for Commission consideration as part of a general rule filing by the Exchange (File No. SR-NYSE-87-18) seeking to codify the NYSE's policy regarding members' ability to install and maintain telephone lines on the NYSE floor to enable them to communicate, from the Exchange floor, with non-members located off-floor. Notice of the proposed rule change was given in Securities Exchange Act Release No. 24625 (June 22, 1987), 52 FR 24576 (July 1, 1987). The proposed rules in File No. SR-NYSE-87-18 are currently under review by the Commission staff.

location on the Floor directly with a member (on the floor) of an options or futures exchange.

(2) *Statutory Basis*—The basis under the Securities Exchange Act of 1934 (the "1934 Act") for the proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that remove impediments to and perfect the mechanism of a free and open market. The proposed rule change is also consistent with section 6(b)(8) of the 1934 Act which provides that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the 1934 Act.

B. Self-Regulatory Organization's Statement on the Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments on the proposed rule change from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to

the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-88-14 and should be submitted by June 8, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 12, 1988.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-11102 Filed 5-17-88; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Boston Stock Exchange,
Incorporated**

May 12, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Horizon Bancorp

Common Stock, \$4.00 Par Value (File No. 7-3354)

Kaneb Energy Partners, Ltd.

Depository Units, No Par Value (File No. 7-3355)

Kleinwort Benson Australian Income Fund, Inc.

Common Stock, \$0.001 Par Value (File No. 7-3356)

Kysor Industrial Corporation

Common Stock, \$1.00 Par Value (File No. 7-3357)

MAI Basic Four, Inc.

Common Stock, \$.25 Par Value (File No. 7-3358)

MFS Municipal Income Trust

Shares of Beneficial Interest (File No. 7-3359)

Monarch Capital Corporation

Common Stock, \$1.00 Par Value (File No. 7-3360)

Pilgrim's Pride Corporation

Common Stock, \$.01 Par Value (File No. 7-3361)

Plains Petroleum Co.

Common Stock, No Par Value (File No. 7-3362)
Primark Corporation
Common Stock, No Par Value (File No. 7-3363)
Royce Value Trust, Inc.
Common Stock, \$.0001 Par Value (File No. 7-3364)
Russ Berrie & Co., Inc.
Common Stock, \$.10 Par Value (File No. 7-3365)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 3, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-11103 Filed 5-17-88; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Boston Stock Exchange, Inc.**

May 12, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Blue Arrow PLC

American Depository Receipts, No Par Value (File No. 7-3366)

Birmingham Steel Corporation

Common Stock, \$.01 Par Value (File No. 7-3367)

Borden Chemical & Plastic, LP

Depository Units, No Par Value (File No. 7-3368)

Digital Communications Association, Inc.

Common Stock, \$.10 Par Value (File No. 7-3369)

IMC Fertilizer Group, Inc.

Common Stock, \$1.00 Par Value (File No. 7-3370)

Morgan Products Ltd.

Common Stock, \$.01 Par Value (File No. 7-3371)

Northeast Savings F.A.

Common Stock, \$.01 Par Value (File No. 7-3372)

Neveen New York Municipal Value Fund, Inc.

Common Stock, \$.01 Par Value (File No. 7-3373)

Oppenheimer Multi Sector Income Trust

Common Stock, No Par Value (File No. 7-3374)

Putnam Master Income Trust

Shares of Beneficial Interest (File No. 7-3375)

Careercom Corporation

Common Stock, \$.01 Par Value (File No. 7-3376)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 3, 1988, written data, views and arguments concerning the above-referenced applications.

Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-11104 Filed 5-17-88; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Incorporated**

May 12, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the

Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Arkansas Best Corporation
Common Stock, \$1.00 Par Value (File No. 7-3345)
Brazil Fund, Inc.
Common Stock, \$0.01 Par Value (File No. 7-3346)
Ferro Corporation
Common Stock, \$1.00 Par Value (File No. 7-3347)
LeaRonal, Inc.
Common Stock, \$1.00 Par Value (File No. 7-3348)
GEO International Corporation
Common Stock, \$0.10 Par Value (File No. 7-3349)
Grubb & Ellis Company
Common Stock, \$1.00 Par Value (File No. 7-3350)
Hotel Investors Trust/Corporation
Combined Stock, \$1.00 Par Value (File No. 7-3351)
Global Growth and Income Fund, Inc.
Capital Shares, \$1.00 Par Value (File No. 7-3352)
Growth Stock Outlook Trust, Inc.
Common Stock, \$0.10 Par Value (File No. 7-3353)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 3, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-11105 Filed 5-17-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 20-128, Design Considerations for Minimizing Hazards Caused by Uncontained Turbine Engine and Auxiliary Power Unit Rotor and Fan Blade Failures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 20-128, Design Considerations for Minimizing Hazards Caused by Uncontained Turbine Engine and Auxiliary Power Unit Rotor and Fan Blade Failures. This AC sets forth a method of compliance with the requirements of 23.903(b)(1), 25.901(d) and 25.903(d)(1) of the FAR pertaining to design precautions taken to minimize the hazards to an airplane in the event of uncontained engine or auxiliary power unit rotor (compressor and turbine) failure and engine fan blade failures.

DATE: Advisory Circular 20-128 was issued by the FAA, Office of Airworthiness in Washington, DC, on March 9, 1988.

How to Obtain Copies: A copy of AC 20-128 may be obtained by writing to the U.S. Department of Transportation, M-443.2, Subsequent Distribution Unit, Washington, DC 20590.

Issued in Seattle, Washington, on May 2, 1988.

William B. Ashworth,
Acting Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 88-11053 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-13-M

[AC NO. 135-XX]

Proposed Advisory Circular on Emergency Medical Services/Helicopter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on proposed Advisory Circular (AC) for Emergency Medical Services/Helicopter (EMS/H).

SUMMARY: The proposed AC is intended to provide information in the conduct of EMS (Helicopter) for operators providing service under Part 135 of the Federal Aviation Regulations.

Comments invited: Comments are invited on all aspects of the proposed

AC. Commentators must identify file number AC 135-XX.

DATE: Comments must be received on or before June 17, 1988.

ADDRESS: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration, Air Transportation Division (Attention: AFS-250), 800 Independence Avenue SW., Washington DC 20591

FOR FURTHER INFORMATION CONTACT: Freddie Cooper, AFS-250, at the above address; telephone: (202) 267-3772 (8:30 a.m. to 5:00 p.m. EST).

SUPPLEMENTARY INFORMATION: The guidance material contained in this AC reflects the material to assist all operators in the conduct of EMS.

Issued in Washington, DC, on May 10, 1988.
William T. Brenn,

Acting Director of Flight Standards.

[FR Doc. 88-11054 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice; Burbank-Glendale-Pasadena Airport, Burbank, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Burbank-Glendale-Pasadena Airport Authority, Burbank, California under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps in April 22, 1988.

FOR FURTHER INFORMATION CONTACT: Herbert W. Hyatt, Environmental Protection Specialist, AWP-611.2, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles California 90009, (213) 297-1534.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Burbank-Glendale-Pasadena Airport, Burbank, California, are in compliance with applicable requirements of FAR Part 150, effective April 22, 1988.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA

noise exposure maps which meet applicable regulations and which depict noncompatible uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of FAR Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Burbank-Glendale-Pasadena Airport Authority on April 14, 1987 and April 15, 1988. The FAA has determined that the noise exposure maps for the Burbank-Glendale-Pasadena Airport are in compliance with applicable requirements. This determination is effective on April 22, 1988. The FAA's determination on an airport operator's noise exposure maps is limited to finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, nor is it a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under FAR Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying

of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and the FAA's evaluation of the maps are available for examination at the following locations.

Federal Aviation Administration, 800 Independence Avenue SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, 15000 S. Aviation Boulevard, Room 6E25, Hawthorne, California 90261.

Mr. Richard Vacar, Manager, Airports Affairs, 2627 Hollywood Way, Burbank, California 91505.

Issued in Hawthorne, California, on April 22, 1988.

Herman C. Bliss,

Manager, Airports Division Western-Pacific Region.

[FR Doc. 88-11055 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 11, 1988.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1048.

Form Number: 8644.

Type of Review: Resubmission.

Title: *Election to be a Qualified Electing Fund.*

Description: Form 8644 is used by foreign corporations whose main

source of income is from investments. These corporations may elect on Form 8644 to become a "qualified electing fund." A qualified electing fund must submit certain information to the IRS and its U.S. shareholders. The IRS uses this information to determine if U.S. persons have reported the correct amount of income from the fund.

Respondents: Businesses or other for-profit.

Estimated Burden: 7,096 hours.

Clearance Officer: Garrick Sherar, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Officer of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer. [FR Doc. 88-11083 Filed 5-17-88; 8:45 am]

BILLING CODE 4610-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: May 12, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB NUMBER: New.

Form Numbers: 8736.

Type of Review: New Collection.

Title: Application for Automatic

Extension of Time to File Return for a U.S. Partnership or for Certain Trusts.

Description: Form 8736 is used by partnerships and by certain trusts to request an automatic 3-month extension of time to file Form 1065, Form 1041, or Form 1041S. Form 8736 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 6,000 hours.

Clearance Officer: Garick Shear, (202) 535-4297, Internal Revenue Service,

Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 88-11084 Filed 5-17-88; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: May 12, 1988.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB

reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0143.

Form Number: 2290.

Type of Review: Resubmission.

Title: Heavy Vehicle Use Tax Return.

Description: Form 2290 is used to compute and report the tax imposed by section 4481 on the highway use of motor vehicles which have a taxable gross weight of at least 55,000 pounds. The information is used to determine whether the taxpayer has paid the correct amount of tax.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Burden: 660,795 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 88-11085 Filed 5-17-88; 8:45 am]
BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Cooperative Studies Evaluation Committee has been renewed for a two year period beginning May 2, 1988 through May 2, 1990.

Dated: May 10, 1988.
By direction of the Administrator:
Rosa Maria Fontanez,
Committee Management Officer.
[FR Doc. 88-11163 Filed 5-17-88; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of agency meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:04 p.m. on Friday, May 13, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street NW., Washington, DC.

Dated: May 16, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 88-11193 Filed 5-16-88; 11:24 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 23, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: May 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-11152 Filed 5-16-88; 8:45 am]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

USITC SE-88-13

TIME AND DATE: Thursday, June 2, 1988 at 10:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. No. 731-TA-384 (Final) (Nitrile Rubber from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202) 252-1000.

Kenneth R. Mason,

Secretary.

May 10, 1988.

[FR Doc. 88-11153 Filed 5-16-88; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

USITC SE-88-12

TIME AND DATE: Tuesday, May 24, 1988 at 2:00 p.m.

PLACE: Room 101, 500 E. Street, SW., Washington, DC 20436.

Federal Register

Vol. 53, No. 96

Wednesday, May 18, 1988

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints: Certain Venetian Blind Components (Docket Number 1442).
5. Inv. Nos. 701-TA-290-292 (P) and 731-TA-400-404 (P) (Thermostatically Controlled Appliance Plugs & Probe Thermostats Therefor from Canada, Hong Kong, Japan, Malaysia, and Taiwan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202) 252-1000.

Kenneth R. Mason,

Secretary.

May 10, 1988.

[FR Doc. 88-11154 Filed 5-16-88; 9:12 am]

BILLING CODE 7020-02-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

(53 FR 16614 May 10, 1988).

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED:

Thursday, May 5, 1988.

CHANGES IN THE MEETING: Additional item.

The following additional item was considered a closed meeting on Wednesday, May 11, 1988, at 2:30 p.m.

Regulatory matter regarding financial institutions.

Commissioner Cox, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Brent Taylor at (202) 272-2014.

Jonathan G. Katz,

Secretary.

May 12, 1988.

[FR Doc. 88-11241 Filed 5-16-88; 3:45 am]

BILLING CODE 8010-01-M



Wednesday
May 18, 1988

Part II

**Department of
Transportation**

Coast Guard

**46 CFR Part 50 et al.
Vital System Automation; Final Rule**

DEPARTMENT OF TRANSPORTATION**46 CFR Parts 50, 52, 56, 58, 61, 62, 110, 111, 113**

[CGD 81-030]

Vital System Automation**AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is adding regulations for automated vital systems on self-propelled commercial vessels to the Marine Engineering Regulations contained in various subchapters of Title 46 of the Code of Federal Regulations. Since the early 1960's, technological advances have caused an ever-growing dependence on automation to provide for the safe operation of vessels while reducing operating costs. Domestically, the Coast Guard has published a series of Navigation and Vessel Inspection Circulars (NVIC's) to promulgate its policy and guidance regarding the safe design, testing, maintenance, and manning of automated vessels. These circulars are inadequate and outdated. Internationally, the need for safe automation on vessels has resulted in the inclusion of automation regulations in the first set of amendments to the International Convention on the Safety of Life at Sea, 1974 (SOLAS '74). These amendments entered into force internationally on September 1, 1984. To ensure that safety is not compromised by automation or reduced manning, uniform safety regulations are needed to replace the NVIC's currently in effect, and to conform to and interpret the provisions of the recent SOLAS amendments. The Coast Guard intends these rules to provide minimum performance and testing standards that do not restrict use of technological developments or alternative arrangements that provide an equivalent degree of safety. Additionally, these rules detail the configuration and degree of automation the Coast Guard deems necessary when authorization for minimally attended or periodically unattended machinery plant operation is requested by the owner or operator of a vessel.

DATES: This regulation is effective August 16, 1988. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 16, 1988.

ADDRESSES: A final regulatory evaluation has been prepared for this rulemaking and may be inspected and

copies at the Marine Safety Council (G-CMC/21) at Room 2110, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: LCDR Peter L. Randall, Office of Marine Safety, Security and Environmental Protection, (202) 267-2206.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published in the *Federal Register* on September 23, 1985 (50 FR 38608). Interested persons were requested to submit comments and fifty-two letters were received, each containing numerous comments. These comments are discussed in detail below.

Drafting Information

The principal persons involved in drafting this rulemaking are: LCDR Peter L. Randall, Project Manager, and Mr. W.R. Register, Project Counsel, Office of the Chief Counsel.

Discussion of Regulations*a. Background*

(1) The vital machinery and engineering spaces of commercial vessels are automated for a variety of reasons, including operator convenience, increased efficiency, reduction or elimination of the need for operators to be continuously present, and detection and control of unsafe conditions. Most automation is provided at the option of the owner of the vessel to reduce necessary manning and increase operating efficiency, thereby reducing operating costs. Over the life of a vessel, the savings as a result of these reduced operating costs usually exceed the capital investment cost of the automation.

(2) The Code of Federal Regulations does not address technical criteria for the safe and reliable automation of vital systems on commercial vessels. For more than 20 years, the Coast Guard has issued a series of NVIC's to express its policy and provide guidance for the cognizant Officer in Charge. Marine Inspection in an effort to ensure a general level of safety on automated vessels at least equal to that experienced on vessels that are not automated. The primary circular for self-propelled vessels other than small passenger vessels and offshore supply vessels has been NVIC 1-69, "Automated Main and Auxiliary Machinery." This NVIC was issued in

January 1969 as a result of Coast Guard and industry experience with the automation technology and steam propulsion systems prevalent in the 1960's. Worded as the "judgment of the Coast Guard" in the context of 46 U.S.C. 222 (now 46 U.S.C. 8101), it provided guidelines for equipment design, maintenance, and testing. It also specified the equipment and procedures deemed necessary to qualify for reduced engineroom manning and emphasized that safety must not be compromised as a result of either automation or associated reductions in manning. While many of the underlying concepts of this NVIC have stood the test of time and are consistent with the international views on safe and reliable automation, it lacks guidance and flexibility applicable to new technologies, configurations, and propulsion systems, particularly diesel engines and electronics. The Coast Guard has used internal policy statements and interpretations to address these deficiencies. The existence of these numerous guidelines and interpretations in nonregulatory form has at times caused confusion in the marine industry and resulted in nonuniform application, misinterpretation, and unnecessary additional costs to the industry.

(3) In 1970, the United States submitted NVIC 1-69 the Intergovernmental Maritime Consultative Organization (IMCO) for consideration in the development of international automation standards. (In 1982, IMCO changes its name to International Maritime Organization, IMO.) In 1974, the United States participated in the development of the International Convention for the Safety of Life at Sea (SOLAS '74), which was developed under the auspices of IMCO. SOLAS '74 was ratified by the United States on September 7, 1978, and entered into force internationally on May 25, 1980. The first set of amendments to SOLAS '74, including automation regulations, were adopted at the Forty-fifth session of the Maritime Safety Committee (MSC) of IMCO in November, 1981. Under the amendment procedures of SOLAS '74, the contracting governments, including the United States, accepted the amendments on March 1, 1984. These amendments entered into force internationally on September 1, 1984. The United States actively participated at all levels of development of the SOLAS '74 amendments and the document that comprised the automation requirements.

Resolution A.325(IX). Public comment was invited and the marine industry participated in all aspects of the development of the United States' position. The SOLAS '74 amendments are generally consistent with the U.S. position; however, they require substantial interpretation and augmentation by the Coast Guard and affected members of the public if they are to be applied in a uniform and fair manner to the U.S. commercial fleet.

(4) In 1981, the Coast Guard initiated this regulatory project, CGD 81-030, to update and replace NVIC 1-69, to incorporate IMCO Resolution A.325(IX), and to solicit public comment before publishing regulations. In 1983, difficulties in evaluating foreign flag vessels being brought under the U.S. flag further accentuated the need for revised Coast Guard automation requirements. NVIC 8-84, "Automated Main and Auxiliary Machinery, Interim Guidance On," was published on June 25, 1984, to provide immediate interim guidance on the application of the SOLAS amendments and NVIC 1-69 pending publication of final rules in this rulemaking. Since its publication, NVIC 8-84 has served its purpose of clarifying how the Coast Guard intends to apply SOLAS to U.S. flag vessels, informing the public, reinforcing certain general concepts found in both NVIC 1-69 and SOLAS, and de-emphasizing certain obsolete or conflicting guidelines in NVIC 1-69.

(5) On September 23, 1985, the Coast Guard published the NPRM for this rulemaking with a comment period set to close December 23, 1985. Shortly before the end of the comment period, however, requests for additional time to prepare and submit comments were received from the American Bureau of Shipping (ABS) and others. The requests cited the extensive and comprehensive nature of the proposed rule as the reason additional time was needed. Due to the significance of this rulemaking, the Coast Guard considered it important to allow parties with relevant comments additional time to evaluate the proposal. An extension of the comment period to February 21, 1986, was published in the Federal Register (51 FR 3352).

Shortly before the end of the extended comment period, the National Marine Engineers' Beneficial Association (NMEA) requested that a public hearing be held on the proposed rules, citing perceived significant changes in Coast Guard technical and manning policies and the need for fullest possible

public participation. The Coast Guard carefully considered the points raised in the request and noted that they reflected a misunderstanding of Coast Guard policy and the intent of the proposal. The Coast Guard also considered the extended length of the comment period, the public hearings on vessel manning held in a related rulemaking discussed later in this preamble (Licensing of Maritime Personnel Rulemaking, CGD 81-059), and the written comments received from the affected public, and concluded that a public hearing at that stage in the rulemaking was not necessary. All points raised in the request, and the Coast Guard's detailed response, have been included in the public docket and are addressed in detail elsewhere in this rulemaking.

b. Issues Addressed.

(1) *Safety.* The marine industry, the Coast Guard, and the member nations of IMO recognize that automated vital system failures are a hazard to navigation and personnel. Coast Guard records for casualties on U.S. flag vessels during 1985 and 1986 include at least 78 marine casualties involving automation addressed by this rulemaking, at a known total cost of at least \$3.2M in damages. These casualties are discussed at length in the Final Evaluation referenced above under ADDRESSES. As an example, Coast Guard casualty records include several cases where remote propulsion controls have failed, resulting in loss of control of the vessel and ensuing damage. These propulsion control casualties alone have directly or indirectly accounted for \$1.3M in damages in 1985 and 1986.

(2) *Vessel manning.* Automation is a vessel manning issue as much as it is an issue of equipment safety and reliability. The Coast Guard is charged by 46 U.S.C. 8101 with determining the complement of licensed officers and crew necessary for safe operation of a vessel. The Coast Guard recently published revised manning requirements in the Federal Register of October 16, 1987 (52 FR 38614) which include manning provisions relating to vessel automation (see 46 CFR Part 15 entitled "Manning Requirements"). While these revised requirements in Part 15 state that the degree of automation is considered by the Officer in Charge, Marine Inspection (OCMI) in determining the manning requirements for a particular vessel, the technical criteria for making this determination has been in NVIC's 1-69 and 8-84, which are now considered by

the marine industry and the Coast Guard to be inadequate.

(3) *Lack of regulatory requirements.* The reason most commonly cited by all interested parties as the need for automation regulations is the lack of clear regulations, and the inadequacy of NVIC's 1-69 and 8-84. Both construction costs and operating costs have been unnecessarily incurred by the marine industry because of misinterpretation of requirements.

(4) *SOLAS.* The SOLAS amendments leave certain detailed requirements and interpretations to the discretion or satisfaction of the "Administration," i.e., the Coast Guard. Certain SOLAS provisions are also more stringent than previous requirements for U.S. flag vessels. An example of this is SOLAS Regulation II-1/31.2.7, which requires propulsion control systems to fail to a preset speed and direction. This SOLAS requirement exceeds past requirements and leaves interpretation of "preset" and the failures to be considered to the individual Administrations.

(5) *Technological advances.* The state of the art of marine automation has advanced from steam plants and elementary controls and instrumentation to the diesel and hybrid plants, distributed automatic controls, and microprocessor control and monitoring technologies prevalent today. This developmental trend is expected to continue and must be taken into account by automation regulations.

(6) *Safety evaluation complexity.* The details of an automated machinery plant depend upon the design of the machinery, its arrangement, and the automation technology (electronic, electric relay, pneumatic, hydraulic, mechanical, etc.) employed. The combination of these factors often makes the details of an automation system unique to a given vessel or class of vessels. The trend toward greater automation of vessels as a result of economic pressure has resulted in large vessels with 1000-2000 monitoring points and sophisticated electrical plant management systems. This uniqueness and complexity in turn makes it difficult to evaluate the safety and reliability of automated vessels, and dictates the need for comprehensive performance standards as opposed to detailed design requirements.

(7) *Applicability.* SOLAS '74 and NVIC 1-69 were not developed to address certain systems or classes of vessels, such as mobile offshore drilling units (MODU's), non-self propelled vessels, dynamically supported craft, or

tanker overflow control systems. The applicability of standards derived from SOLAS and the NVIC to these vessels must be given further consideration. These rules do not apply to those vessels.

c. Intent of Rules.

(1) *General.* The Coast Guard intends the regulations to—

(i) provide flexible, performance-oriented rules to assure acceptable minimum levels of safety, regardless of an automated vessel's degree of automation, the type of automation technology, or the configuration employed;

(ii) assure compliance of automated U.S. flag vessels with the international standards of safety promulgated by the SOLAS convention and the applicable IMO resolutions;

(iii) emphasize the role of the marine industry, particularly in the areas of design, construction, and maintenance, in providing safe and reliable vessels; and

(iv) closely integrate the specific automated vessel technical design and construction requirements of these rules with the vessel manning requirements of recently revised 46 CFR Part 15, to assure the safety and adequate manning of U.S. flag vessels.

(2) *Structure.* (i) The provision of a single set of automation regulations applicable to all vessels to which the Marine Engineering Regulations apply should promote a uniform set of standards that can be more easily understood and simplify the process of revising the regulations when necessary. It should also facilitate Coast Guard plans concerning possible future transfer of certain functions associated with the regulations to the American Bureau of Shipping or other non-government agencies.

(ii) The rules are broken into four major segments:

(A) An equivalency provision.

(B) General performance, reliability, and safety criteria for all automated systems.

(C) Specific criteria for specific types of systems, where provided.

(D) The minimum equipment and systems deemed necessary for minimally attended and periodically unattended machinery spaces on automated vessels.

Each of these segments is intended to build upon the prior, *i.e.*, systems listed under the specific provisions must also meet the general criteria, and systems required for minimally attended or periodically unattended machinery space manning must also meet applicable specific and general criteria.

(3) *Assumptions and objectives.* (i) In developing the safety performance standards in this rulemaking, the Coast Guard used several assumptions and basic objectives. These were derived from the Coast Guard's experience with automated vessels over the last 20 or more years and from input provided by the public. They are considered to be fundamental concepts that, in various degrees, are reflected in past and present Coast Guard, IMO/IMCO, SOLAS, and classification society policies and regulations for vessel safety. These basic assumptions were presented in the NPRM and are again listed below. Clarification of Assumption (B) has been made as a result of public comments, and the revision is shown in italics.

Assumption (A) Regardless of how well designed, constructed, or operated any automated equipment is, it can fail catastrophically. While extensive and detailed design, quality control, and maintenance regulations may reduce the likelihood of a failure, a finite probability remains that a failure can occur. Regulations that attempt to completely prevent failure might in fact be counter-productive to safety, expensive, and burdensome to all parties. Therefore, it is prudent to assume that failures will occur and consider the necessary safety contingencies.

Assumption (B) Localized flooding or fire can occur regardless of the precautions taken to prevent them. Such emergencies can disable vital system automation, make it inaccessible, and pose an immediate threat to the safety of the vessel and its crew. Therefore, it is prudent to provide alternative means of operation. *Further, the ability to counteract localized flooding or fires should not be diminished by the provision or location of automation.*

Assumption (C) The evaluation of the safety of any automated vessel in light of the events described in Assumptions (A) and (B) should be limited to any single, non-concurrent failure or event and its logical effects. In light of the large number of concurrent combinations possible and the relatively low probability of their occurrence, it is impractical and burdensome to consider such combinations. It is, however, prudent and reasonable to consider the logical chain of events that could occur as a result of a single failure or event, and to consider conditions that contribute to unsafe conditions.

Assumption (D) The safety of vessels with automated vital systems should be at least equal to that of a vessel with its vital systems under direct manual supervision.

(ii) Based on these assumptions, these regulations are intended to meet the following objectives:

Objective (A) To the greatest extent practicable, the failure of automation or automated equipment should be safe (failsafe) and the foreseeable unsafe effects minimized by design. In a similar manner, the effects of a localized fire or flooding on safe control and operation should be minimized and localized.

Objective (B) A responsible member of the crew must promptly become aware of a failure, fire, or flooding, either directly from personal observation or indirectly from reliable instrumentation or alarms.

Objective (C) Upon becoming aware of a failure, fire, or flooding, the crew must have an alternate, effective means available to operate the vessel safely and to counteract the effects of failure, fire, or flooding.

Objective (D) The crew should know how to operate both the automated system and the alternate controls in the event the automation fails. Similarly, the operation of the system must be clear and obvious to the crew.

Objective (E) There must be indication at operator control locations of the safe, or unsafe, state of operation of the equipment controlled from that location.

(iii) A failure scenario was developed that describes the intended sequence of events deemed desirable to attain the primary goal of this rulemaking, safety. The scenario includes options that depend upon the nature of the automation, manning of the vessel, and its operation. It is a development upon the aforementioned assumptions and objectives, and includes the following sequence of events:

Event (A) The vessel is underway in normal operation, with spaces and machinery status monitored by crewmembers or automation.

Event (B) A single vital system or vital system component fails, or localized fire or flooding occurs.

Event (C) In the case of a vital system failure, it fails to a pre-determined safe state and the effects of the failure are minimized.

Event (D) A crewmember on duty promptly becomes aware of the failure, fire, or flooding.

Event (E) In the case of a vital system failure, either—

(i) the failed unit is automatically removed from service and replaced with a reliable, effective backup; or

(ii) a crewmember manually removes the failed unit from service and manually transfers to a reliable and effective alternate means of operation.

In the case of localized fire or flooding, either—

(i) The crew takes action locally to counteract the effects of the hazard, if the space and equipment are accessible and operable; or

(ii) The crew takes action from an alternate, remote location to counteract the effects of the hazard, if the space or equipment are not accessible or operable.

Event (F) The failure scenario ends with the vessel in continued or restored safe operation, even if at a reduced operational capacity.

(4) *Discussion of Specific Regulations—§ 58.01-35 Main propulsion auxiliary machinery.* This rule is an interpretation of SOLAS Regulation II-1/26 and provides general performance criteria not found elsewhere in the Marine Engineering Regulations. It has been included because it is fundamental to compliance with the performance standards in Part 62.

Subpart 61.40 Design Verification and Periodic Tests

These tests are intended to make sure that automated systems initially operate in a safe and reliable manner and continue to do so during the service life of the vessel. The tests are similar to those described in NVIC 1-69. The Design Verification Tests in § 61.40-1 are intended to be more detailed and intensive than the Periodic Safety Tests of § 61.40-6, in that they must confirm that all systems, when initially installed, function as required by the performance standards of Part 62. Design Verification Tests are generally associated with yard trials and sea trials. Periodic tests are intended to confirm the continued operation of major safety systems and features annually. On vessels where the Coast Guard has accepted automated systems to replace specific personnel or reduce overall crew requirements, the periodic tests are also intended to determine, in part, the adequacy of the required planned maintenance program and the adequacy of the manning with which the vessel has operated.

Section 62.01-5(d) Applicability, Central Control Rooms

This paragraph is an interpretation of the SOLAS requirements referenced in Table I and is generally more stringent than past Coast Guard guidelines. Implicit in this interpretation is the assumption that a control room partially or completely isolates the operator from the machinery space environment. Certain essential monitoring and control functions, therefore, are required to be extended from the machinery space to the control room to provide a level of

safety equivalent to that of an operator located in the machinery space itself.

Subpart 62.20 Plan Submittal. This subpart contains certain changes from past standards. Significant among these are a new requirement for a qualitative failure analysis of certain complex automated systems, deletion of the previous requirement for a maintenance program *approved* by the Coast Guard, and provisions for the self-certification of compliance with environmental design standards in lieu of plan review and laboratory testing.

Section 62.20-1 Plans for Approval. The plan submittal requirements in this section are similar to those of the past. Designers and manufacturers of automation equipment should also see 46 CFR 50.20-15, which outlines the requirements for the use of previously approved plans. Information necessary to confirm general compliance with the Marine Engineering and Electrical Regulations will continue to be required by those regulations, such as overcurrent protection, wiring and connection materials, and fluid piping.

Section 62.20-3 Plans for Information

The *approval* of a planned maintenance program is no longer a prerequisite for reduced manning. The specific content of the program is up to the vessel's operator. The maintenance program will initially be used by the Coast Guard to aid in evaluation of requests for reduced manning. Once the vessel is in service, it is intended that re-inspection and the Periodic Safety Tests of Subpart 61.40 witnessed by the Coast Guard will determine the adequacy of the maintenance program.

This section also requires that a qualitative failure analysis be developed and submitted as an information document for certain complex systems. This document will aid in the evaluation of the system and will emphasize the role of the designer and manufacturer in evaluating the designed safety of vital system automation. Further discussion of the failure analysis requirements is included in the *Analysis of Comments* discussion below.

Subpart 62.25 General Requirements for All Automated Vital Systems

This subpart is intended to provide general performance and arrangement standards applicable to the control and monitoring of any vital shipboard system.

Section 62.25-25 Programmable Systems and Devices

These requirements are intended to prevent either the intentional or unintentional modification of required safety parameters on systems or

equipment that readily lend themselves to adjustment or loss of function, such as safety trip sensors and programmable controllers. The requirements are not intended to prohibit routine adjustments and calibration necessary for the normal and efficient operation of automatic controls or instrumentation.

Section 62.25-30 Environmental Design Standards.

These standards generally correspond to those of international technical bodies. Rather than require detailed and costly testing to these standards in an effort to confirm component suitability, the Coast Guard intends to emphasize the reliable and safe function of the overall system, testing after installation, and manufacturer and designer certification of component suitability.

Subpart 62.30 Reliability and Safety Criteria, All Automated Vital Systems

This subpart is intended to provide general performance standards applicable to any automated vital system.

Section 62.30-1 Failsafe.

The failsafe operation of vital systems has long been a Coast Guard policy. In some cases, such as failure of propulsion controls to a preset speed and direction, the failsafe state is internationally definable and recognizable. In other cases, such as a microprocessor based system, the complexity or nature of the system may preclude the statement of a single preferred failsafe state. It is the intent of this rule that each control and alarm system fail in a manner consistent with the overall safety of the vessel and personnel in light of the assumptions and failure scenario discussed in this rulemaking. For certain complex systems and in equivalency determinations, the failure analysis required by § 62.20-3(b) is intended to aid in the identification of a preferred failsafe state.

Section 62.30-5 Independence.

Independence of systems or equipment normally implies separate and discrete components in order to provide reliability. Complete duplication in this manner is costly, may not be necessary, or may be impractical. As the term independent is defined and used in these rules, however, common reliable components could be used provided the performance criteria are met. An example is a system that provides for disconnection of a failed subsystem while allowing continued operation of the required function. This definition is included to allow arrangements that do not provide complete duplication but do

provide a level of safety and reliability equivalent to complete duplication.

Subpart 62.35 Requirements for Specific Types or Automated Vital Systems

This subpart augments the general performance and configuration requirements of Subpart 62.25 and 62.30. It addresses safety criteria peculiar to specific systems of equipment that might be automated on a vessel.

Section 62.35-5(e)(3) Remote Propulsion Control System Details.

This rule has special significance in that it requires failsafe propulsion control operation. Failure of propulsion controls, particularly while maneuvering, has caused numerous vessel casualties. This rule, in conjunction with the failure analysis required by § 62.20-3(b)(2), is intended to address known causes of propulsion control failures.

Section 62.35-20 Oil-Fired Main Boilers

These rules include automatic safety trip controls for all main boilers to prevent major boiler failures, greater emphasis on boiler air flow to prevent explosive conditions, and prohibition of certain automatic functions following boiler safety shutdowns.

Table 62.35-50 Minimum System Monitoring and Safety Control Requirements for Specific Systems. This table is intended to summarize in a single location the minimum instrumentation, alarms and safety controls deemed necessary by the Coast Guard for specific types and categories of automated equipment.

Subpart 62.50 Automated Self Propelled Vessel Manning

This subpart is intended to address the minimum systems, configurations, and maintenance programs necessary for the Coast Guard to accept automated systems to replace specific personnel or to reduce overall crew requirements in accordance with the new § 15.715 of the Manning Requirements mentioned above under *Issues Addressed*. The requirements of this subpart would be in addition to the rest of the technical requirements of Part 62. The references to specific levels of Manning and Watchstanders in NVIC 1-69 have been deleted, as they have resulted in misinterpretation and confusion. These rules are intended to establish technical criteria to be used by the Officer in Charge, Marine Inspection in determining the Manning Requirements for a particular vessel. Actual Manning may exceed the Coast Guard's minimum required complement and is usually subject to agreement between a vessel's labor and management interests. Failure

of automated equipment to perform in accordance with the provisions of the rules could result in the Coast Guard adjusting the minimum complement of officers and crew.

Section 62.50-20 Additional Requirements for Minimally Attended Machinery Plants

These requirements are intended to address vessel machinery plants and spaces that are automated, but not to a degree where the plant could safely be left unattended. Emphasis is placed on the centralized remote control and monitoring of the machinery plant and machinery spaces and the assumptions and failure scenario discussed in this rulemaking. The cognizant Officer in Charge, Marine Inspection (OCMI) may determine the need for more or less equipment depending on the vessel characteristics, route, or trade. For example, the personnel alarm may not be required if normal operation includes two crewmembers continuously in attendance.

Section 62.50-20(h) Maintenance Program

Where automation is provided to replace personnel or to reduce overall crew requirements, there may be a greater need for planned maintenance. This occurs because of a potential reduction in the maintenance work force, an increase in the sophistication and quantity of equipment to be maintained, and the reliance of the crew upon the automated equipment. The Coast Guard therefore considers it necessary to require automated vessels to have a planned maintenance program. As the content of such a program varies with vessel type, trade, route, manning and similar factors, the rules leave program content and implementation up to vessel management. The Coast Guard will evaluate the actual effectiveness of the program during the trial period and re-inspections and will then determine the adequacy of the program and manning.

Section 62.50-30 Additional Requirements for Periodically Unattended Machinery Plants

These requirements are intended to address machinery plants and spaces that are automated to the degree that they are self-regulating and self-monitoring and can safely be left periodically unattended. Emphasis is placed on providing systems that act automatically until the crew can take action in the event of a failure or emergency. As required by the Coast Guard in the past, the requirements for a periodically unattended machinery plant are in addition to those of a minimally

attended machinery plant. This permits the crew to operate the plant directly should the arrangements for unattended operations prove unsatisfactory, for whatever reason.

Section 62.50-30(k) Continuity of Electrical Power

This rule, in consideration of SOLAS II-1/53.2, which requires automatic standby power for the main switchboard, and 46 CFR 112.05-3, which prohibits automatic feedback by the main-emergency bus-tie, no longer permits use of the emergency generator as the automatic standby source of electrical power.

Analysis of Comments and Changes Made

Need for Regulations. This rulemaking has presented a new and comprehensive set of safety regulations for vital system automation. Four comments on the proposed rules opposed the development of any new regulations, and stated a definite preference for NVIC's or comparable guidelines. The reasons given included: (1) the NVIC's are less rigid and less costly, (2) the maritime industry is in recession and cannot give the proposed rules the attention they deserve, and (3) there is no clear mandate, i.e., *need for regulation*. Twenty-nine comments supported the development of new regulations, with ten stating the rulemaking represents a marked improvement over the NVIC's, which should help eliminate confusion and which should be generally beneficial.

These rules have been developed as performance standards to allow the maximum possible flexibility in compliance consistent with safety. The costs related to these regulations are discussed under *Evaluation and Certification*. These rules, and the NVIC's and SOLAS regulations from which they are derived, have been developed with considerable public input over the last 25 years, and the public actively participated in the development of the final rules. Because of the ever present potential for casualties related to vital system automation, these safety regulations are considered to be essential.

Delegations to Classification Societies. The draft regulatory evaluation and the notice of proposed rulemaking (NPRM), at 50 FR 38815, stated that the proposed rules could potentially result in a cost savings to the Coast Guard as a result of further delegation of plan review and inspection functions to the American Bureau of Shipping (ABS). Automated vital system

functions are not presently delegated by the Coast Guard to any party. Although the NPRM did not propose any delegation of plan review and inspection functions to classification societies, four comments supported such a delegation. Specific delegations to the ABS or any other classification society are considered to be beyond the scope of these rules, and are being addressed in a separate rulemaking docket entitled "Delegation of Authority to United States Classification Societies" (CGD 85-019).

Clarifications. The final rules include various clarifications to provisions proposed in the NRPM which have been made principally in response to recommendations of commenters. Many of the clarifications address specific recommendations that certain text be revised to remove unclear or confusing concepts as noted in specific comments. With one or two exceptions, these clarifications have not been individually discussed below as the reasons for the clarification become self evident simply by comparing the text of the clarified rule with corresponding proposed rule text. Certain clarifications have also been made to make text consistent with the text of various substantive changes which are discussed below.

Sections 52.01-10(a) and 62.35-20(a)(1) Main Boiler Safety Trips

One comment recommended deleting the requirement to have automatic safety trips on manually fired main boilers because they are not required by SOLAS. This comment has not been adopted. Coast Guard casualty records show that numerous boiler casualties, particularly flarebacks, occur when boilers are manually fired and can be avoided by providing automatic safety trips. These same findings are supported by ANSI/NFPA 85D "Standards for Prevention of Furnace Explosions In Fuel Oil-Fired Multiple Burner Boiler-Furnaces." Automatic safety trips are considered essential and are normally provided on vessels as a matter of general industry practice.

Section 56.50-80(i) Lubricating Oil System

One comment recommended that the requirement in the proposed rules to have an emergency supply of oil for all propulsion turbines only be applied to steam turbines. This recommendation has been adopted. There was no intent to apply the requirement to propulsion machinery other than steam turbines and associated high speed gearing. The shorter coast down period of diesel propulsion machinery generally makes an emergency supply unnecessary.

Section 58.01-35 Duplication of Auxiliary Machinery

This regulation requires duplication of auxiliary machinery vital to the main propulsion system. One comment stated that the regulation should specify which auxiliaries must be duplicated. Another comment requested clarification regarding single propulsion boiler installations, piping, cabling, deadship starts, and the relation of this regulation to SOLAS II-1/26 and Subpart 56.50 of Subchapter F. Specific requirements for most auxiliaries required to be duplicated are contained in Subparts 56.50 and 111.10 of Title 46, CFR. Specific requirements for piping and cabling are also in Subpart 56.50, Subpart 111.10, and in § 111.60-9. This regulation is substantively the same as SOLAS Regulation II-1/26.3.

Two comments recommended that the note to § 58.01-35 concerning partial reduction of normal propulsion capability refer to a reduced navigating capability (after propulsion auxiliary failure) of 7 knots or half speed, whichever is less (rather than greater, as proposed in the proposed rule). This recommendation has been adopted. The proposed rule would have required slower vessels to have unnecessary additional equipment which is not needed when proceeding at half speed. The note as revised is comparable to the various recognized classification society rules which generally specify 7 knots or less.

One comment asked whether an automation feature of "automatic slowdown" would comply with § 58.01-35. Automatic slowdown upon loss of an auxiliary component is one means of compliance.

Section 61.40-1(b) Test Responsibility

This regulation specifies that testing must be done by persons designated by the owner. One comment recommended that a marine inspector, rather than the owner of a vessel, randomly select a crewmember to conduct the testing required by this section in order to evaluate crew familiarity with the vessel. This recommendation has not been adopted. The tests are intended to evaluate the equipment, not the capabilities of the crew. The Coast Guard's role with regard to automation test procedures is not to supervise or participate in the tests, but rather to inspect and witness testing of the vessel according to an approved procedure.

Section 61.40-3(a) Design Verification Testing

This rule requires design verification tests to be based on failure analysis, if

required by § 62.20-3(b), and other criteria. One comment stated that it will be difficult to derive a design verification test procedure from a failure analysis, especially where a microprocessor or computer control system is concerned. Failure analysis is intended to evaluate the safety and reliability of the design and readily lends itself to identifying critical safety features that should be confirmed by testing. As an example, the failure analysis may show that a power outage to one section of a microprocessor or computer control system should not affect the operation of the rest of the system. This design feature is identified by the failure analysis and can then be confirmed by a one-time design verification test.

Section 61.40-6(b) Periodic Safety Tests

Two comments recommended that the typical period between tests be one year in lieu of at each inspection for certification (*i.e.*, every two years). This recommendation has been adopted. The Officer in Charge, Marine Inspection (OCMI) can specify test intervals longer or shorter than one year, depending on the particulars of the vessel's operation, maintenance program, and past performance of the automation. Normally, however, the interval between periodic safety tests witnessed by the Coast Guard has been one year.

Section 62.01-5(a) Vessel Applicability—MODUS

Several comments stated that the proposed rules should not be applied to mobile offshore drilling units (MODUS). The applicability of the rules to MODUS was addressed as issue b.7. above and made reference to the OCEAN RANGER casualty. As a result of this casualty, attention to MODU ballast systems and ballast control systems has significantly increased. Substantial effort has gone into developing international standards for these systems at various meetings of the International Maritime Organization, IMO. Pending the anticipated completion of international standards in 1988, the Coast Guard will continue to treat MODU automation as a vital system on a case-by-case basis. The requirements in this rulemaking (CGD 81-030) will not be applied to MODU's at this time. Applicable requirements of this rulemaking and the finalized IMO standards will be proposed for MODU's in Coast Guard rulemaking docket (CGD 83-071a) when the IMO standards become effective.

OSV's. Several comments questioned whether the proposed rules would apply to Offshore Supply Vessels (OSV's).

These rules do not apply to OSV's. Requirements for these vessels are addressed separately in NVIC 1-78 and have been incorporated into proposed rules being prepared for OSV's in a separate rulemaking docket, (CGD 82-004). See the advance notice of proposed rulemaking for planned OSV requirements, which was published in the *Federal Register* of February 14, 1983 (48 FR 6636).

Other Vessels. Two comments recommended limiting the applicability of these regulations to self-propelled vessels to which NVIC 1-69 and SOLAS apply, and a third comment recommended limiting applicability to self-propelled vessels over 1600 gross tons, with provisions for type and locale of operation. As in the case of OSV's, these rules were never intended to apply to self-propelled vessels under 500 gross tons certificated under Subchapters D, I or U, or to certificated passenger vessels under 100 gross tons. A new subsection 5(a) has been added to exclude the applicability of these regulations to these types and sizes of vessels. These limits are the same as SOLAS and the Coast Guard's application of NVIC 1-69 and NVIC 6-84. The recommended 1600 gross ton cutoff was not adopted. This cutoff would exclude vessels such as coastal tankers, coastal freighters, dredges, passenger ferries, passenger cruise vessels, and research vessels, all of which commonly use automation. There are approximately 130 such existing vessels above the 100/500 gross ton cutoffs of these rules and below 1600 gross tons, and NVIC 1-69 has been applied to most of them.

The limitations for type and locale of operation are inherent in the regulations. For example, if the only automation on a passenger ferry is remote propulsion control, only those requirements relevant to remote propulsion control will apply. However, if sufficient automation is provided to reduce manning, the cognizant OCMI will determine the need for more or less equipment depending on the vessel characteristics, route, or trade (see § 62.50-1(b), note). This approach represents a continuation of current Coast Guard policy.

One comment suggested that the proposal only apply to vessels that are automated to reduce manning, but not to vessels that automate vital systems, as an option, without reduced manning. This recommendation has not been adopted. Coast Guard casualty records show that automation can fail regardless of a vessel's manning, and that adequate safety precautions must be taken. This is one of the fundamental points

discussed under *Assumptions and Objectives* in this document. Additionally, SOLAS Regulation II-1/31 also contains automation requirements for vessels that automate vital systems, as an option, without reduced manning. *Section 62.01-5 (b) and (c) System and Equipment Applicability*

These rules apply to automated vital systems and equipment listed in § 62.01-5(b) except for certain exemptions listed in § 62.01-5(c). One comment said this applicability is too broad and appears to include simple systems for closing fuel valves, stopping ventilation, and automatically starting pumps. The comment recommended that the applicability be more specific and, in particular, be limited to propulsion control systems. This recommendation has not been adopted. The basic safety principles discussed in *Assumptions and Objectives* have been applied by the Coast Guard in developing these rules and are intended to apply to simple and complex systems alike. The proper location and failsafe operation of remote motor and valve controls, the provision of local manual alternate control, and the automatic starting of standby vital auxiliaries in unattended machinery spaces are important safety considerations for automated vessels. Fire protection systems, flooding safety systems, and electrical power generation systems are among the systems that are automated and essential to safety that would be excluded by adopting this recommendation.

One comment said the regulations should not apply to systems that are only being monitored and that are not automatically or remotely controlled. This recommendation has not been adopted. Instrumentation and alarms, from simple bilge level alarms to complex computerized video displays in control rooms, are relied upon by the crew as extensions of their own senses and as a source of information for making decisions. Reliable and clear presentation of this information is necessary for safe operation of the vessel and its machinery.

Proposed paragraph (b)(3) exempted optional control and monitoring systems from all of the proposed requirements. One comment recommended that this exemption be deleted, i.e., that the requirements in this rulemaking be made applicable to optional control and monitoring systems which can effect vital systems. This recommendation has been adopted. The final rules (see § 62.01-5 (b) and (c)) have been made applicable to optional control and monitoring systems unless otherwise

exempt as non-vital or industrial systems or other systems exempted under § 62.01-5(c). Non-vital exempt systems include performance monitoring and trending systems and similar non-required, non-vital systems whose failure would not degrade the safety and reliability of required systems.

Section 62.01-5(d) Central Control Rooms

This paragraph provides that the requirements of subpart 62.50 for automated self-propelled vessel manning only apply to vessels automated to replace specific personnel or to reduce overall crew requirements, with certain exceptions. The exceptions relate to vessels having main propulsion or ships service electrical generating plants which are automatically or remotely controlled from a control room. In this case, vessels must provide certain additional essential monitoring and control functions required in §§ 62.50-20(a)(3), (b)(3), (c), (e)(1), (e)(2), (e)(4) and (f)(2), including fire protection and flooding safety functions. As explained in the NPRM, this regulation was derived from SOLAS Regulations II-1/31.3 and assumes that a control room partially or completely isolates the crew from the machinery space environment.

One comment said that reference § 62.50-20(a)(3)(ii) (relating to control and monitoring of the electrical generating and distribution plant from the control room) should be deleted. This recommendation has been partially adopted. The provision in § 62.50-20(a)(3)(ii) for control and monitoring of the electrical generating plant from the control room has been retained in the final rules. Situations arise where the licensed engineer in a control room, without these capabilities, would be effectively isolated from the controls and instrumentation needed to restore power in the event of a blackout. Control of the entire electrical distribution was not intended, however, and the final rules have been modified to provide that compliance with the electrical distribution provision in § 62.50-20(a)(3)(ii) is not required. Compliance is also not required in the comparable SOLAS regulation, II-1/31.3, and the revision reflects contemporary industry practice.

The proposed rule included a reference to § 62.50-20(d) (relating to remote control of fire pumps). One comment recommended that this reference be deleted because it unnecessarily exceeds SOLAS Regulations II-2/4.3.4. This recommendation has been adopted. The

reference does exceed SOLAS and it refers only to vessels not having reduced manning, in which case sufficient crewmembers should be available to quickly respond to the required fire alarms regardless of the location of pump control.

One comment recommended that the reference to the requirement in § 62.50-20(e)(2) for remote control of a required bilge pump from the control room be deleted because it exceeds SOLAS. This recommendation has not been adopted. The intent of § 62.01-5(d) and SOLAS II-1/31.3 and 48 is to ensure the ability to take timely and effective action to counter flooding. Also the need for § 62.01-5(d) is supported by casualty information involving engineroom flooding. Remote control of a bilge pump from the control room is essential to carry out this intent and, accordingly, the provision has been retained in the final rule.

To comments expressed uncertainty as to whether the requirements in this paragraph apply to vessels with open control stations. These rules do not apply to vessels with open control stations where reduced manning is not desired; nor do the rules require enclosed control rooms.

Section 62.05-1 Incorporation by Reference

The proposed rules referenced the IEEE "Guide for General Principles of Reliability Analysis of Nuclear Power Generating Station Protection Systems" as the primary standard for the development of failure analysis required by this part. Four comments recommended deleting this reference because it is not a commercial maritime standard, the commercial maritime industry is generally unfamiliar with it, and because it could be applied in a manner that would be overly restrictive and impose a prohibitively high cost. This recommendation has been adopted. Failure analysis, and acceptable formats for failure analysis, are discussed below under § 62.20-3(b) *Plans for Information, Failure Analysis*.

Three comments recommended comparing the proposed rules to those of the American Bureau of Shipping, and whenever the ABS rules will suffice, adopt them in lieu of the proposed rules. This recommendation has also been adopted, and the rules have been revised to incorporate by reference the ABS "Rules for Building and Classing Steel Vessels" where possible. More extensive incorporation by reference of ABS rules in this rulemaking has not been possible because of differences in requirements, scope, and application.

Two comments suggested that the Coast Guard work with the ABS to resolve differences and change ABS automation rules to facilitate additional incorporations by reference. The Coast Guard is actively working with ABS, ASTM, SNAME, and others to develop industry automation standards and guidelines suitable for future incorporation by reference.

Section 62.10-1(a) and 62.30-1(a) Definitions, Failsafe

Two comments noted the absence of a definition of what is failsafe for a given system and wanted specific failsafe states specified by the Coast Guard, if possible. Section 62.30-1(a) requires the evaluation of failsafe states on a case-by-case basis. Case-by-case evaluation is necessary because systems and vessels vary, and what is safe for one may not be safe for another. For example, shutdown of one of two propulsion engines on a vessel due to overheating may be safe because propulsion can be maintained without jeopardizing the vessel or personnel. On a single propulsion engine vessel, however, the same shutdown would result in loss of propulsion and should not be considered "failsafe" because a less critical alternative, e.g., a reduction in power without shutdown, may be possible and preferable. Table 62.10-1(a) provides a listing of typical failsafe states for automated equipment specified in the rules.

One comment requested clarification of what is considered to be the failsafe state for remotely operated fuel tank valves. These valves should fail closed under fire conditions, but should fail open under other conditions to permit continued operation of engines. Table 62.10-1(a) has been revised to reference § 56.50-60(d) which specifies these valves must either fail closed or have a stored energy system to close them.

One comment said that some safety systems should be allowed to fail in an "as is and alarm" state rather than result in the shutdown of vital machinery. The table has been revised to include this option.

Section 62.20-1(a) Plans for Approval

One comment asked if automation plans, test procedures, and failure analysis can be submitted at any time for review and approval. Automation plans must apply to a specific vessel, and must be submitted for review in accordance with Subparts 50.20 and 62.20. However, § 50.20-15(a) provides that if a manufacturer wishes to fabricate equipment in accordance with plans previously approved, including

work accomplished under a previous contract, resubmittal of plans is not required if the equipment is certified to be identical, that there are no changes in the applicable regulations, and that the same Coast Guard plan review office, i.e., the Marine Safety Center, is the approving authority. The Coast Guard will review previously approved plans to determine if they are suitable for the specific vessel and system application. The industry is encouraged to take advantage of the provisions of § 50.20-15(a) as they are both time and cost effective for the Coast Guard and industry alike. A manufacturer or shipyard planning to use previously approved plans should contact the Marine Safety Center to discuss establishment of a design file, how plan modifications and contract-specific details are to be treated, how information plans are to be treated, and similar details.

Sections 62.20-3(a)(2), 62.50-20(h) and 62.50-30(j) Planned Maintenance Program

The final rules require a planned maintenance program on vessels automated to replace specific personnel or to reduce overall crew requirements. The rules also require that this program be submitted to the OCMI as an information document for use in evaluating automated vessels and the proposed manning. Two comments suggested that these requirements are unnecessary and recommended deleting them. These recommendations have not been adopted. Planned maintenance programs are necessary on these vessels because of a potential reduction in the maintenance work force, an increase in the sophistication and quantity of equipment that must be maintained, and the reliance of the crew on the automated equipment. The Coast Guard has required and approved maintenance programs under the provisions of NVIC 1-69. Section 62.50-20(h)(1) states that program content and detail are optional, provided it includes the necessary maintenance and repair manuals and checkoffs to help avoid errors of omission. Sections 62.50-1(b)(4) and the new § 15.715(a) of the recently adopted "Manning Requirements" state that Coast Guard acceptance of automated systems to replace specific personnel or to reduce overall crew requirements is predicated upon a planned maintenance program to ensure continued safe operation of the vessel. Maintenance programs vary from provision of scheduled shore-side maintenance personnel for vessels with a dedicated route, to the provision of a detailed

program carried out by a reduced shipboard engineering complement. The Coast Guard considers this information in evaluating automated vessel manning requests.

Section 62.20-3(b) Plans for Information, Failure Analysis

The proposed rules required submittal for approval of a qualitative, non-numeric failure analysis of *all* vital system automation. The proposed requirement for review and approval of a qualitative failure analysis of all automation was part of a multi-tiered safety scheme comprising failure analysis at the design stage, oversight of the analysis by the Coast Guard, review of safety requirements for overpressure, overcurrent, fire safety, shock, and similar material characteristics, design verification testing to confirm the accuracy of the failure analysis, a shipboard trial period, and follow-up periodic safety tests to confirm that the system continues to operate safely. In many respects, this scheme was more comprehensive than past criteria. The proposed requirement represented an expansion of Coast Guard policy in recent years of requiring a qualitative failure analysis for microprocessor-based vital system automation because of the complexity of these systems. It was also comparable to the requirements of various classification societies such as the American Bureau of Shipping (ABS).

Five comments opposed the use of qualitative failure analysis as the primary means to evaluate safe functioning and reliability of designs. The comments suggested that potential abuses and a decrease in safety could result along with uncertainty among designers as to application of the regulations, and they emphasized that the proposal would unnecessarily add to the overall costs of relatively uncomplicated systems on smaller vessels. In accordance with these comments, proposed § 62.20-1(a)(4) and § 62.30-10, which required failure analysis approval for *all* vital system automation, have been deleted. However, the final rules (§ 62.20-3(b)) retain a requirement for qualitative failure analysis for certain complex systems and particularly vital safety features. As recommended by the comments, detailed automation piping and wiring plans currently required by 46 CFR Subchapters F and J will continue to be required.

Qualitative failure analysis is a relatively new concept for many in the industry. Detailed plan review is adequate for simpler systems. The approach taken by the final rules

minimizes the financial impact on the industry by requiring qualitative failure analysis only in those cases involving complex systems where experience shows that the analysis is necessary and the industry is generally familiar with the concept. Qualitative failure analysis will be used to assist in evaluating the safe functioning of complex systems represented by detailed piping and wiring plans. This approach is similar to the requirement for stability calculations required by 46 CFR 170.090 (which aid in the evaluation of vessel stability) and is similar to the requirement for calculation of short circuit currents (fault current analysis) required by 46 CFR Subpart 111.52 (which aids in the evaluation of vessel electrical systems).

As discussed above, experience has shown that analysis is necessary for certain complex systems. A brief discussion of the analysis requirements in the final rule and why they were retained follows.

(a) Section 62.20-3(b)(1) of the final rules requires a qualitative failure analysis for propulsion controls. As discussed in the NPRM, Coast Guard casualty records include several cases where these vital and often complex systems have failed, resulting in loss of control of the vessel and ensuing damage. Experience has shown that numerous casualties can be prevented by the use of failure analysis at the design stage to identify the design flaws that have resulted in many of these casualties.

(b) Section 62.20-3(b)(2) of the final rules requires a qualitative failure analysis of microprocessor based system hardware. This requirement has been a policy of the Coast Guard since 1983. It is necessary because of the complexity of these systems and their tendency to fail in indeterminate modes, making traditional evaluation by detailed plan review impractical and ineffective.

(c) Section 62.20-3(b)(3) of the final rules requires a qualitative failure analysis of safety controls. This requirement is necessary to aid in the evaluation of the required reliability, functional independence, and failsafe operation of these particularly important controls.

(d) Section 62.20-3(b)(4) of the final rules requires a qualitative failure analysis of electrical power management systems. Electrical power management systems have become increasingly complex in recent years in an effort to increase vessel efficiency. This requirement is necessary to evaluate the effect of electrical power management system failure on the

continuity of ship service electrical power, the propulsion plant, and the overall reliability and safety of vessel systems that rely on electricity for power.

(e) Section 62.20-3(b)(5) of the final rule requires a qualitative failure analysis for automation equipment or functions that are required to be independent but that are not physically separate. This requirement is necessary to evaluate the safety of systems and equipment which share a common component or components, such as a control actuator, data bus, or uninterruptable power supply, but which must still be able to function independently in the event of failure in one of the systems. The failure analysis will typically only address the effect of failures to these common components on otherwise physically separate systems or functions.

(f) Section 62.20-3(b)(6) of the final rule requires a qualitative failure analysis of any other vital system automation that, in the judgment of the Commandant, constitutes a safety hazard to the vessel or personnel in case of failure. This requirement is necessary to address the safety and reliability of new or innovative automation designs or technologies, and to address automation that, as the result of future casualty experience, the Commandant considers particularly hazardous in the event of failure.

Section 62.20-3(b) includes a note explaining the intent, level of detail, procedures and content necessary for the required failure analysis. The note states that analysis need only be to a level of detail necessary to show compliance with the requirements of this rulemaking. One comment suggested that analysis should be conducted to a detailed component level in order to be of value because it is at that level that failures occur. This recommendation has not been adopted. The discussion in the NPRM said that it is not intended that the failure analysis be performed to the extremely detailed level. Normally, the level of analysis would be to the major subsystem or major replaceable component level, such as a remote control subsystem, power supply, or actuator. Once the analysis identifies that required safety provisions are met, e.g., failsafe, functional independence, safety trips, operation, etc., additional analysis of the feature in greater detail is not needed to determine safe operation after failure.

Section 62.20-5(a) Self-Certification

The proposed rules required the designer and manufacturer of an

automated system to certify to the Coast Guard, in writing, that the system is designed to meet the environmental design standards of proposed § 62.25-30. The proposal also stated that plan review and independent testing to show compliance with the referenced standards was not necessary. Four comments said that self-certification is inadequate and recommended equipment testing to determine compliance with environmental design standards. This recommendation has not been adopted. With few exceptions, self-propelled vessels are classed by a classification society, and their automation equipment is therefore tested to environmental design standards of the classification society by the manufacturer. Additional environmental design testing by the manufacturer for the Coast Guard would be unnecessary duplication of effort and cost, particularly considering the assumptions of this rulemaking concerning equipment failure and the requirements for failsafe operation, alternate control, failure analysis, plan review, design verification testing, shipboard trial periods and follow-up periodic safety tests. On the occasional unclassed vessel, the accountability of the designers, the manufacturers, the owner, and the operator should avoid abuses in the self-certification process.

Section 62.25-1(b) Proposed Posted Operating Instructions

Proposed § 62.25-1(b) required operating instructions to be provided and emergency operating instructions to be posted at control stations when the operation is not common or readily apparent. Two comments said the required posting of emergency operating instructions is unnecessary because they would have to be voluminous and superfluous and would clutter the control station, would duplicate the technical manuals already required by § 62.20-1(a)(8), and because the licensed engineers should normally be aware of emergency procedures without reference to posted instructions. In accordance with these comments, proposed § 62.25-1(b) has been deleted. It should also be noted that Section 15.405 of the new manning rules requires each licensed engineer to become familiar with the relevant characteristics of the vessel, including emergency duties, controls, and main propulsion and auxiliary machinery, prior to assuming his or her duties on the vessel.

Section 62.25-1(b) of the final rule provides that automation which controls or monitors more than one safety control, interlock, or operating sequence must perform all assigned tasks

continuously, i.e., the detection of unsafe conditions must not prevent control or monitoring of other conditions. Three comments said this requirement should be revised to allow scanning type monitoring rather than continuous monitoring. This recommendation has not been adopted. The rule is intended to preclude systems that identify and process individual problems for an indeterminate length of time, to the exclusion of other, possibly more important, assigned responsibilities. Such operation is not equivalent to manual control and monitoring by the crew. Automated systems that repeatedly scan inputs or conditions with sufficient speed to be equivalent to manual monitoring, however, would be acceptable.

Sections 62.25-5(a) and 62.35-5(d) Control Location

Proposed § 62.25-5(a) required control of propulsion systems, electric power generation systems and electric power distribution systems to be from only one location at a time, except for safety trips. One comment recommended deleting reference to electric power generation systems and electric power distribution systems because it would prevent pilothouse load and generator selection input to electric power management systems which are controlled in the engineroom with remote input from the pilothouse. This comment has been adopted in § 62.35-5(d), and proposed § 62.25-5(a) has been deleted.

Section 62.25-5(c) Control Systems, Inadvertent Grounding

The proposed rule said that inadvertent grounding of an electrical or electronic safety control system must not cause false signals or safety control bypassing. One comment recommended that the use of self-monitoring circuits which would automatically alarm if there is a ground should be allowed as an alternative. The recommendation has not been adopted. The intent of the rule is to preclude, by design, unsafe effects of grounds on control systems. The proposed alternative would not normally be acceptable because it does not preclude these effects; it only alarms them.

Section 62.25-20 Instrumentation, Alarms, and Centralized Control Locations

The rules in this section are performance standards that provide performance criteria for instrumentation and alarm displays. They do not provide specific requirements for any particular instrumentation technology, e.g., analog

gauge displays, digital displays, or cathode ray tube (CRT) displays. Three comments recommended that specific requirements for CRT displays be added. Reasons cited included CRT susceptibility to single failures, their inability to continuously display information during alarm conditions, and the limitations on the amount of information that can be displayed at one time. These recommendations have not been incorporated in the final rules. CRT displays can provide the same performance capabilities as conventional console displays and both are considered to be acceptable as long as they meet the standards in these rules. Depending on their configuration, both can be susceptible to single failures that can eliminate most or all of their display capability and, accordingly, both are evaluated to determine the effects of such failures. The limitation on the amount of information that can be displayed at one time by a CRT is comparable to the limitation on the amount of information that can be effectively observed at one time on a large conventional console display, i.e., the CRT screen display is comparable to the viewable portion of the conventional console. Also, both CRT's and conventional systems can be configured to simultaneously display both alarm and system information, e.g., one CRT used to display only alarm conditions.

Paragraph 62.25-20(b)(2) requires systems with remote instrumentation to have provisions for the installation of instrumentation at the monitored system equipment. Two comments asked whether this rule requires permanently installed instruments. The answer is no. This paragraph does not require instruments to be permanently installed and it is identical to a longstanding guideline in NVIC 1-69 that was intended to make sure instruments can be utilized at the equipment location if the remote monitoring system fails.

Paragraph (b)(3) of the proposed rule required the status of automatic or remotely controlled vital auxiliaries, power sources, switches, and valves to be visually indicated in the machinery spaces and at the cognizant remote control location. The second sentence of the note to the proposed rule provided that if status was clearly indicated by other instrumentation, such as pump status indicated by pump output pressure indication, additional status indication would not be necessary. One comment recommended that this provision in the note be deleted because the distinct status indicators at the ECC for pumps provide valuable information in determining the cause of low pressure

alarms. The note in the final rule has been revised to incorporate this recommendation.

Paragraph (b)(5) of the proposed rule required that all data displays required to be alarmed must have continuous or demand instrumentation displays in the machinery spaces unless Table 62.35-50 specified otherwise. One comment said this requirement appeared to be a change in policy because NVIC 1-69 required the displays to be at the ECC, and recommended that the past policy be continued to aid the operator in monitoring the plant. There was no intent to modify the policy in NVIC 1-69. The final rule has been reworded to emphasize that instrumentation displays must be provided in the EEC or in the machinery space if an ECC is not provided.

Proposed paragraph (d)(1)(ii) required alarms to clearly distinguish between fire, general, CO₂/halon, machinery, flooding, and non-vital alarms. One comment said that the engineers' assistance-needed alarm of 46 CFR Subpart 113.37 should be added to the list because of its importance. The final rule has been changed to adopt this recommendation.

One comment said this rule should specify colors for alarm indicators. This recommendation has not been incorporated. The markings required for general alarms and fire safety alarms can be found in the individual vessel subchapters. The Coast Guard will continue its policy of accepting any consistent application of optional automation alarm color codes, pending the completion of the Code for Alarms presently being developed by the International Maritime Organization (IMO).

Paragraph (d)(2) of the rule says that required alarms in high ambient noise areas must be supplemented by visual means, such as rotating beacons. One comment recommended that if there are non-vital alarms in high ambient noise areas, they should consist of rotating beacons only to minimize confusion with the required alarms. This recommendation has not been adopted. A requirement for beacons on non-vital alarms, in addition to the beacons already necessary to draw attention to required alarms, will only add to confusion and difficulty in providing distinct alarm indication.

Paragraph (d)(6) of the proposed rule required failure of a control or alarm system to be alarmed at a manned control station. One comment said that for unattended plants, this would result in unnecessary alarms on the bridge. The comment said this rule appears to conflict with § 62.25-20(g)(3), which

requires minimization of bridge alarms, and recommended that these alarms only be extended to the engineers' accommodations. The final rule has been changed to require the alarm in the machinery spaces and at the ECC, if provided. The rule was not intended to unnecessarily require alarms on the bridge.

Paragraph (e)(vii) of the final rule requires audible alarms to annunciate until manually acknowledged. One comment recommended that manual acknowledgment be required at the ECC in accordance with past Coast Guard policy. The final rule has not been changed. NVIC 1-69 and these rules do not require a central control station unless the vessel is automated to replace specific personnel or to reduce overall crew requirements. If an ECC is not provided or required, the alarms may be safely located and acknowledged at the equipment. If an ECC is required, then the rules require alarms and manual acknowledgment at the ECC, as recommended by the comment.

Section 62.25-25 Programmable and Adjustable Systems and Devices

Paragraph (a) of the rule prohibits programmable control or alarm system logic from being altered after design-verification testing without the approval of the OCMI. It also requires a means, acceptable to the OCMI, to make sure setpoints remain within the safe operating range of the equipment. Four comments said this requirement should not prohibit the normal practice of adjusting setpoints and tuning vital system automation. The rule has not been changed. It does not restrict the adjustment of setpoints within the safe operating range of the equipment. It requires a means to make sure that safety trip control, safety limit control, and alarm setpoints cannot be readily or inadvertently adjusted to the extent that they become meaningless and ineffective in ensuring safety and preventing equipment damage.

One comment said the rule would require numerous spare circuit boards to be carried, instead of allowing replaceable multiple-use boards that are typically carried and recalibrated on board. The rule has not been changed. It does not prohibit or make the use of multiple use boards impracticable. The logic of the calibrated board in a specific application cannot be changed without the approval of the OCMI because it can represent a re-design of the approved system.

Proposed paragraph 62.25-25(b) required operating programs for microprocessor-based or computer-

based vital control, alarm, and monitoring systems to be stored in memory that did not rely on mechanical devices. One comment recommended that mechanical memory storage such as disk drives be permitted if provided in duplicate. The final rule has been changed in accordance with this comment to permit disk drives and similar mechanical devices. Analysis and experience with such installations since the NPRM have shown they can be safely applied. These devices are subject to failure analysis under the provisions of § 62.20-3(b)(2).

Paragraph (c) of the rule provides that if microprocessor-based or computer-based systems serve both vital and non-vital systems hardware and software priorities must favor the vital systems. One comment recommended that failures that cause incorrect priorities be alarmed. The rule has not been changed. These systems are subject to failure analysis to identify such malfunctions, and the rules require failure of all vital control and alarm systems, including microprocessor-based and computer-based systems, to be alarmed.

Section 62.25-30 Environmental Design Standards

Paragraph (a)(4) of the proposed rule required automation to be designed to be suitable for a relative humidity of 0 to 100%. Two comments recommended changing the requirement to 0 to 95% relative humidity because it is typical for industry design and because 100% relative humidity is unrealistic and will create unnecessary costs and design changes for previously acceptable equipment. The final rule has been changed in accordance with these comments to require automation to be suitable for 0 to 95% relative humidity.

Paragraph 62.25-30(b) of the final rule requires low voltage electronics to be designed with due consideration for static discharge, electromagnetic interference (EMI), fungal growth, and contact corrosion. One comment said that an EMI standard such as MIL-STD-461B should be referenced. This recommendation has not been adopted. Incorporation of a specific EMI standard such as MIL-STD-461B would unnecessarily eliminate other equally effective and less stringent performance criteria to prevent EMI.

Section 62.30-5(b) Independence

The proposed rule required the primary control, alternate control, and safety control systems for any vital system to be independent of each other, and required alarm and instrumentation systems to be independent of primary

and alternate control systems, including sensors. Four comments said that the rule should also require alarm and instrumentation systems to be independent of primary control, alternate controls, and safety controls because the classification societies require this type of independence and because this would make safety systems independent of alarm systems, thus enhancing their reliability. The final rule has been changed to adopt this recommendation. This change will prevent an unnecessary and costly conflict with the requirements of the classification societies while maintaining acceptable functional independence criteria.

Four comments recommended deleting the requirement for having independent sensors because they are expensive, preclude some safe parallel redundant control and monitoring schemes, and are impractical in many cases. Two comments supported having independent sensors for propulsion control speed or pitch feedback because sensor failure can result in system runaways but indicated that additional requirements concerning independent sensors are unnecessary. The final rule has been changed to require sensors for primary speed, pitch, and direction of rotation control in closed loop propulsion control systems to be independent and physically separate from required safety control, alarm, or instrumentation sensors. Coast Guard casualty records confirm that propulsion control feedback sensor failure can result in propulsion machinery runaway. The final rule has also been changed to delete the requirement for other alarm and instrumentation sensors to be independent for the reasons given in the comments and because any potential impact on safety is substantially offset by requiring alarm and instrumentation systems to be independent of primary controls, alternate controls, and safety controls.

One comment said that certain critical functions such as "stop" should not be processed by a computer and should be separate and independent because experience showed that a computer malfunction has resulted in a shutdown failure. The final rule has been changed to require the propulsion safety trip control of § 62.35-5(c)(1)(ii) to be independent and physically separate. This is consistent with past Coast Guard policy in NVIC 1-69 and the application of SOLAS requiring these safety trip controls to be independent and physically separate.

Section 62.30-5(c) Power Source Failure Alarm

The proposed rule required failure of either of the two required power sources to cause an alarm in the machinery spaces. One comment said that only the loss of the normal source should be alarmed because SOLAS only requires alarming of the normal source. This recommendation has been adopted for the reason given and because the visible indicator and test switch requirements for emergency power sources in 46 CFR Subpart 112.45 provide protection equivalent to alarming the failure of the emergency power source.

Section 62.30-15(b) Built-In Test Equipment

The proposed rule required built-in test equipment that failed to return the tested system to normal operation to cause an alarm at a manned control location. One comment recommended that the requirement for an alarm be deleted because it is unnecessary, expensive, and the required indicator at the control station provides sufficient information to the operator. The final rule has been changed to delete the requirement for an alarm. In addition to the reasons given, the criteria for causing the alarm, e.g., operator not in attendance, time, etc., can be very subjective.

Section 62.35-5 Remote Propulsion Control Systems

This section addresses propulsion control in terms of speed and direction of thrust of the propeller. One comment said that this approach is too general and may allow interpretations deviating from the intent of SOLAS and Coast Guard policy. The comment recommended that the concept of propulsion control be addressed more specifically in terms of discrete engine speed control and propeller direction control. This recommendation has not been incorporated. The performance requirements in these rules and SOLAS are intended to address overall vessel propulsion control, regardless of whether it is attained by integrated or discrete engine speed control or propeller control.

Paragraph (c)(3) of the proposed rule required an indicator to be provided at the main pilothouse control location to annunciate when the shaft direction or the pitch of a controllable pitch propeller did not match that commanded by the navigating bridge operator control device. Two comments stated that this requirement is unnecessary because the required indication is provided by the shaft speed and thrust

indicators required by Subpart 113.37 of this Chapter. This recommendation has been adopted, and proposed paragraph (c)(3), as well as the listing for an associated main propulsion remote control wrong direction alarm in Table 62.35-50, have been deleted from the final rules. The intent of the proposal was to indicate failure of the propulsion control system. The indications required by 46 CFR Subpart 113.37, in conjunction with the requirements for failure analysis, failsafe operation of propulsion controls, and alarming of propulsion control failure adequately meet the intent.

Paragraph (c)(1) of the rules navigating bridge propulsion control to include automatic performance of all associated services and not to allow overloading of the propulsion machinery during normal operation. One comment recommended extending the overload protection criteria to other control locations. This recommendation has not been adopted. The engineers in the ECC or at the local manual control station are generally more familiar with the limitations of the machinery and have more detailed instrumentation available to monitor possible overload. One comment said the rule should include protection during abnormal operation because overloads may be higher. This recommendation has been adopted. The intent of the requirement, as stated in NVIC 1-69 and SOLAS, is to prevent overload of the propulsion system as the result of movement of the bridge control device. The final rule has been changed to require the control system to prevent the rate of movement of the control device from causing overload of the propulsion machinery.

Paragraph (c)(3) of the final rule requires alarms on vessels propelled by internal combustion engines to indicate starting power of less than 50% of the required capability. It also requires that if automatic starting is provided, the number of automatic consecutive attempts that fail to produce a start must be limited to a reserve of 50% of the required starting capacity, which is required to be 12 starts for reversing engines, and 6 starts for non-reversing engines. Two comments recommended that the rule be changed to require limiting the number of automatic consecutive attempts to three, after which an alarm sounds and reset of the equipment by the operator is necessary prior to further automatic starting attempts. This recommendation has not been adopted. However, the recommendation represents an acceptable option that is consistent with

the rule and the requirements of SOLAS and the classification societies.

One comment said that there should be no limit on the number of automatic consecutive attempts because the low starting air alarms required by this section and the ability of the operator to override automatic starting attempts constitutes adequate protection against inadvertent depletion of starting capacity. This recommendation has not been incorporated. It is contrary to common industry practice and SOLAS requirements which limit automatic starting attempts to safeguard starting power.

Paragraph (d) of the rule incorporates ABS provisions which require automatic remote primary control systems to automatically prevent control location transfer from significantly altering propelling thrust. One comment said these requirements are unnecessary because it is normal practice for operators to manually align control levers before transfer to equalize signals at both stations and therefore prevent a change in thrust. The final rule has not been changed because it reflects NVIC 1-69 and SOLAS requirements. Many automation designs are arranged so that control transfer cannot occur unless the control levers are aligned as described by the comment.

Proposed paragraph (f)(2) required an automatic propulsion turbine safety trip to prevent inadvertent movement as a result of control system malfunction. One comment recommended that this requirement be deleted because the trip could itself malfunction and unnecessarily result in the loss of propulsion. This recommendation has been adopted. The proposed trip requirement has been deleted for the reason given and because the requirement in paragraph (e)(3) of the final rule for propulsion control systems to be failsafe provides the intended protection against inadvertent vessel movement resulting from control system malfunction.

Paragraph (e)(2) in the final rule permits a temporary override, located at the main navigating bridge control location, for propulsion machinery automatic safety trips. One comment said that these overrides should not be permitted because bridge personnel do not have the training or information necessary to make decisions concerning the propulsion machinery. The rule has not been changed. These optional overrides are permitted by SOLAS, are common industry practice, and have been accepted by the Coast Guard in the past. If an owner or operator does not feel the bridge personnel have the training or information necessary to

make decisions concerning the propulsion machinery, they have the option not to install or permit use of the override. In other cases, the overrides permit the bridge personnel to reduce power settings or maintain steerage in emergency maneuvering situations.

Paragraph (e)(3) of the final rule requires remote propulsion control systems to be failsafe by maintaining the preset speed and direction of thrust until local manual or manual alternate control is in operation. Three comments suggested clarification of the term preset. One of these comments suggested that preset means "as is". Another suggested that preset means the setting of the mechanical speed governor. The final rule clarifies that preset means "as is," as the SOLAS regulation has been interpreted by the Coast Guard, classification societies, and manufacturers in the past. This permits the operator to either maintain plant status until local or alternate control is achieved, or to trip the plant using the manually activated safety trip required by § 62.35-5(b)(2). These options are superior to "trip" or "Zero" in a maneuvering situation. In some specific cases, where it does not result in a significant speed change, the preset setting of the mechanical speed governor is acceptable, but must be evaluated on a case-by-case basis.

One comment said that only loss of control power should be considered as a cause when evaluating failures of remote propulsion controls for compliance with this rule. This recommendation has not been adopted. Other causes in addition to control power failures, such as loss of feedback signal and computer malfunction, have resulted in casualties involving propulsion control failures.

Section 62.35-10 Flooding Safety

Paragraph (a)(1) of the proposal required automatic bilge pumps to be provided with an independent bilge high level alarm system. Three comments recommended that bilge high level alarms be permitted as part of the central alarm system because this has been permitted by NVIC 1-69. This recommendation has been adopted. The final rule has been changed to require bilge high level alarms to be independent of the automatic bilge pump controls. This is consistent with the requirements of NVIC 1-69 and there was no intent to modify that policy.

Paragraph (a)(2) of the rule requires automatic bilge pumps to be monitored to detect excessive operation in a specified time period. One comment recommended that the time period be specified. The final rule has not been

changed. The intent is to detect excessive leakage which may be a prelude to a major casualty, and the time period for detection depends on variables that are different for each ship, such as size of the pump and size of the bilge wells. The operator usually establishes the time based on the particulars of the vessel, e.g., the time it takes for the automatic bilge pump to drain the bilge well.

Section 62.35-20 Oil Fired Main Boilers

Proposed paragraph (c)(1) required automatic combustion control subsystems to provide the air/fuel ratio necessary for complete combustion and stable flame with the fuel in use, but in no case less than 10% excess air. Four comments recommended deleting the requirement for 10% excess air because it is inefficient and safe operation can be obtained with excess air of less than 5%. This recommendation has been adopted. The final rule as changed should allow flexibility in attaining a safe and efficient air/fuel ratio. This change essentially retains the air/fuel ratio provision in NVIC 1-69.

One comment recommended that automatic combustion controls be required to have a low fire interlock to prevent boiler damage during warm up, as required by NVIC 1-69. This recommendation has been adopted, and a new subparagraph (c)(3) has been added to require automatic combustion control subsystems to provide a low fire interlock to prevent high firing rate and superheater damage during boiler warm up. This was an unintended omission from the NPRM.

Paragraph (d)(1) requires boilers to undergo a continuous purge of at least 5 changes of air volume. This is a change of policy from the minimum of four changes of air required by NVIC 1-69. One comment said the change from the past policy is unjustified. This recommendation has not been adopted. Boiler flashback casualties have been attributed to inadequate purging, and the National Fire Protection Association and the Society of Naval Architects and Marine Engineers both recommend more than 4 changes of air. There is no cost increase associated with this requirement.

Proposed paragraph (d)(2)(ii) required that boiler air flow during light off be at least 25 percent of boiler full load volumetric air flow. This was a change from past policy intended to preclude pocketing of combustible gases and ensure an air rich condition for safe light off. Three comments said this proposed requirement should be reconsidered because it is overly restrictive, the

airflow necessary for lightoff varies from installation to installation, and the proposal is contrary to the practice of closed register light off recommended by many manufacturers. The final rule has been revised by deleting the 25% airflow criteria and by requiring total boiler airflow during lightoff to be sufficient to prevent pocketing and explosive accumulations of combustible gases, i.e., to provide an air rich furnace atmosphere. This change is consistent with the intent of the proposed rule, and permits necessary performance flexibility.

Proposed subparagraph (d)(2)(iv) required the burner trial for ignition period to be no longer than 5 seconds. This was a deliberate change from NVIC 1-69, which permitted trial for ignition periods of up to 15 seconds. The proposed rule was intended to minimize the amount of unburned fuel that enters the boiler. One comment said 5 seconds is too short because it won't allow settling of air flow after the purge that immediately precedes trial for ignition. One comment said it should be increased to 10 seconds, and two comments recommended that the NVIC 1-69 requirement of 15 seconds be continued. The final rule has been changed to require the trial for ignition period to be as short as practical for the specific installation, but in no case longer than 15 seconds. This will allow periods longer than 5 seconds, if necessary, while minimizing entry of unburned fuel into the boiler.

Subparagraph (d)(3)(ii) prohibits automatic increases in air flow to the boiler following boiler safety trip control operation. One comment said that the rule should be changed to require operation of the boiler safety trip control to cause immediate automatic post-purge of the boiler to clear the furnace of unburned oil vapors. This recommendation has not been adopted. Boiler safety trip occurs when there is a problem, such as flame failure. Automatically increasing airflow can result in an explosive atmosphere in a malfunctioning hot boiler. Following boiler safety trip, air flow changes should be gradual and under manual control, preferably after the cause of the trip has been determined and corrected.

Paragraph (i) lists the conditions that must result in closing the master and all burner fuel oil valves. One comment recommended that burner valve position feedback to the burner and boiler safety trip controls be required and that unsuccessful burner shutdown be an additional condition that causes valve closure. In support of the recommendation the comment said this

would ensure that the commanded valve position actually occurred and would encourage proper maintenance of valves and valve actuators. This recommendation has not been adopted. It could result in tripping the boiler because of unsuccessful shutdown of a single burner, causing a loss of propulsion or loss of electric power to the vessel. Instead, a requirement for burner valve status instrumentation (open/closed) has been added to Table 62.35-50 to provide the recommended burner valve position feedback to the operator. This requirement is consistent with § 62.25-20(b)(3), which requires the status of automatically or remotely controlled vital valves to be visually indicated.

Section 62.35-35 Internal Combustion Engines

Proposed paragraph (b) required all controls and alarms for gas turbines to be provided at a centralized control location. This rule has been deleted because it unnecessarily duplicates the requirements of §§ 58.10-15 and 62.25-20(g).

Section 62.35-40(b)(1) Coal Fuels

The proposed rule provided that systems and equipment that operate on coal or two types of fuel, such as oil/gas, oil/coal, heated/unheated oil, and heavy/light oil require special consideration by the Commandant (G-MTH). Three comments said that, with the exception of coal, the rules are adequate for safety without special consideration by the Commandant, and recommended that the rule only require special consideration of coal systems. This recommendation has been adopted. There are sufficient requirements in Part 62 and elsewhere in Title 46 CFR to address the safety of oil-gas, heated/unheated oil, and heavy/light oil fuel systems. The final rule only requires controls and instrumentation for coal systems to be subject to special consideration by the Commandant (G-MTH).

Section 62.35-50 Tabulated Monitoring and Safety Control Requirements for Specific Systems

The rule includes a tabulation of automated system instrumentation, alarms, and safety control requirements that apply if the system listed is provided or required. The tabulation includes the requirements in Part 62 and provides clarifying notes. The table has been developed from NVIC 1-69, SOLAS, and experience gained with past and contemporary designs.

The table does not specify instrumentation location. One comment

recommended that the table specify instrument location as local, remote, or both. This recommendation has not been adopted. The location requirements vary with vessel configuration and degree of automation, e.g., if an ECC is provided or required, or if the vessel is designed for minimally attended or periodically unattended machinery spaces, etc. Location requirements can be found in § 62.25-20(b) (Instrumentation Location), § 62.25.20(g) (Central Control Locations), § 62.01-5(d) (Central Control Rooms), Subpart 62.35 (Requirements for Specific Types of Automated Vital Systems), and §§ 62.50-20 and 62.50-30 (Additional Requirements for Minimally Attended and Periodically Unattended Machinery Spaces).

The proposal included requirements for engine coolant tank level instrumentation. One comment recommended deleting this requirement because it was excessive, exceeded the requirements of classification societies, and the low level alarm provided adequate safety. This recommendation has been adopted for these reasons.

The proposal included a requirement to monitor main propulsion diesel engine fuel oil pressure to injectors. Two comments recommended changing this requirement to monitoring of fuel oil booster pressure because the high pressure of fuel oil to injectors is impractical and dangerous to monitor. This recommendation has been adopted for the reason stated.

One comment recommended that an alarm to indicate standby generator failure should be added to the table. This recommendation has not been adopted. The lack of ship service power will be obvious and the other ship service and emergency generator alarms provide adequate indication.

One comment recommended that pitch indication be included in the table requirement for main propulsion remote control shaft thrust instrumentation. This recommendation has been adopted. Pitch indication is required by § 113.37-5.

One comment recommended adding auxiliary boiler alarms to the table. This recommendation has been adopted, and the rule has been changed to require running indication and a trip alarm for vital auxiliary boilers, with reference to the detailed control and alarm requirements in Part 63, Control Systems for Automatic Auxiliary Heating Equipment. The reason for this change is to provide operators with summary status information and failure information for auxiliary boilers that are vital; e.g., they provide steam for ship service turbo-generators or for heating

fuel used in propulsion engines. This requirement is similar to the instrumentation and alarm requirements for other vital auxiliaries listed in the table.

One comment recommended that the table require an exhaust gas temperature deviation alarm for each exhaust belt of diesel main propulsion engines and diesel generator engines, where more than one exhaust belt is provided, because it would alarm failure of a fuel pump. This recommendation has not been adopted. The individual cylinder deviation alarms required by the table provide adequate indication of fuel pump failure.

Note 18 in the proposed Table required fire detection systems to use flame or smoke detectors, or a combination of these. Two comments recommended changing this requirement because SOLAS does not permit the use of flame detectors alone. This recommendation has been adopted and the rule has been changed to agree with SOLAS and current Coast Guard policy. The note now says that the use of thermal detectors alone is subject to special consideration by the Commandant (G-MTH), and flame detectors may only be used in conjunction with smoke or thermal detectors.

Subpart 62.50 Automated Self-propelled Vessel Manning

Sections 62.50-20 and 62.50-30 specify additional requirements for minimally attended machinery plants and periodically unattended machinery plants. Two comments recommended defining the terms minimally attended machinery plants and periodically unattended machinery plants. The preamble to the NPRM included descriptions of these terms. These descriptions have been included as notes to §§ 62.50-20 and 62.50-30 in the final rules to provide clarification of the terms.

The rules do not specify engineering manning or watchstander levels on automated vessels. NVIC 1-69 provided general guidelines for the reduction of manning in machinery spaces on automated vessels, and also referred to the elimination of specific watchstanders by the installation of specific automation. These rules, NVIC 1-69, and the manning rules in Part 15 of this chapter refer to the OCMI as the authority who specifies an automated vessel's minimum manning based upon the evaluation of the vessel's equipment, automation reliability, planned maintenance program, crew organizational structure, trade, route,

and other factors listed in §§ 62.50-1, 15.501(b), 15.705(a), and 15.715. Three comments recommended that the rule specify standard minimum manning levels for automated enginerooms. Two of these comments said that without specific standard manning levels, the OCMI might be subject to pressure to reduce manning below levels necessary for safety, and that manning levels for similar vessels would vary from OCMI to OCMI and port to port. The third comment said that arbitrary judgments by OCMI's would be disastrous to commercial economics and labor/management relations. A fourth comment entirely supported the proposed approach taken.

The recommendation to specify standard manning levels has not been adopted. The OCMI has the authority and responsibility to issue the Certificate of Inspection which specifies the vessel's complement. The OCMI determines the minimum complement consistent with safety based upon evaluation of the crew and vessel to meet the criteria described above. There is no change from NVIC 1-69 to the final rule regarding the OCMI's role. Coast Guard Headquarters has been involved for several years in evaluating the safe manning of each and every automated vessel and in administering a Coast Guard wide uniform manning policy. This Headquarters involvement should prevent inconsistencies or arbitrary judgments by OCMI's referred to in the comments.

As stated in the NPRM, the references to specific levels of manning and watchstanders in NVIC 1-69 have misled people into believing that if specific automation is provided, specific manning is assured, without regard to the other essential criteria in these rules and the manning rules and in the new Part 15. The Coast Guard's policy has been, and continues to be, the emphasis of these latter considerations. The lack of reference to specific manning levels and watchstander levels in the rule is intended to eliminate the misconception that specific manning is assured if specific equipment is provided.

One comment recommended that the rules require a licensed engineer and an unlicensed rating to be on watch in automated enginerooms. The comment said it would afford the crew and vessel a reasonable degree of safety, allow simultaneous monitoring and maintenance of automated equipment, provide additional help and a back-up crewmember if necessary, and provide sufficient personnel to cope with emergencies. This recommendation has not been incorporated. The setting of

watches is the responsibility of the master of the vessel. The comment's reasons for requiring watchstanders are among the considerations in determining the crew complement necessary for the safe operation of the vessel, including evaluation of the complement necessary to allow the master to set appropriate watches.

Section 62.50-1 General

Section 62.50-1(b)(3) requires the engineering manning of vessels incorporating automated vital systems to be conditioned by the proven performance of the plant during an initial trial period. Two comments requested clarification as to whether builder's sea trials are suitable for this purpose. A third comment recommended that successful builder's sea trials be accepted as the trial period for determining crew complement because this is common practice for some foreign flags and it would place U.S. flag vessels in a more competitive economic position. Sea trials are not considered to be adequate to evaluate the reliability of the vessel's automated systems. It is longstanding Coast Guard policy, as expressed in NVIC 1-69 and in section 15.715 of the Title 46 CFR, to require a period of proven operation and reliability of the automation following initial testing and de-bugging (*i.e.*, after builder's sea trials) before establishing the final crew complement. SOLAS II-1/31.3 and 46.2 also require measures to be taken to ensure that the equipment is functioning in a reliable manner.

Experience has shown that the safety precaution of a trial period not only helps identify possible ship design and automation problem areas, but it also helps identify problems with the crew organization and complement in responding to emergencies, automation failures, and in maintaining and operating the vessel. The length of the trial period varies, with 6 months being typical for the first in a class of vessels. Subsequent vessels in a class having no major system changes typically undergo shorter trial periods, depending on the circumstances. The complete elimination of the trial period and acceptance of the builder's sea trials may provide some economic benefit to some U.S. flag operators, depending on the labor/management collective bargaining agreement. However, any benefit is more than offset by the potential inadequacy of the automation, crew complement, or crew organization, as demonstrated by some U.S. flag vessels which have had their trial periods extended because of problems encountered with unsafe or unreliable

automation during the required trial period.

Paragraph (c) of the rule states that equipment provided to replace specific crewmembers or to reduce overall crew requirements that proves unsafe or unreliable in the judgment of the cognizant OCMI must be immediately replaced or repaired or vessel manning will be modified to compensate for the equipment inadequacy. One comment said that this rule's provision regarding modifications in manning should be deleted because subjecting vessel manning to re-evaluation introduces unacceptable economic uncertainty for vessel operators. This recommendation has not been adopted. It would permit vessels whose automation proved unsafe or unreliable subsequent to the initial trial period, or whose maintenance requirements increased as the vessel aged, to operate in the unsafe condition of having an inadequate crew complement. The operator has the option, instead of increasing the vessel complement to compensate for equipment inadequacy, of replacing or repairing the equipment that proves unsafe or unreliable. Both of these options have been used in the past.

Section 62.50-20 Additional Requirements for Minimally Attended Machinery Plants

Paragraph (d) of the rules requires ECC control of the main machinery space fire pumps. One comment recommended deleting this requirement because it exceeds SOLAS, which only requires fire pump control from the navigating bridge. This recommendation has not been adopted. The fire pump controlled from the navigating bridge is not always located in the main machinery space, and remote control of the main machinery space fire pumps from the ECC under minimally attended conditions compensates for the crewmembers that would otherwise be present to start machinery space fire pumps. Also, remote control permits those in attendance to perform such tasks as bringing additional electrical generating capacity into play. This requirement is consistent with longstanding requirements in NVIC's 1-69 and 6-72, Guide to Fixed Fire Fighting Equipment Aboard Merchant Vessels. The intent of this rule is to ensure that the firemain can be charged as quickly as possible in the event of a fire.

Paragraph (e) of the proposed rules required the controls for machinery space fixed gas fire extinguishing systems to be operable from the ECC, except for systems that protect the ECC, which must have controls outside the ECC exit that is independent of the

machinery space. Two comments recommended deleting the requirement for control from the ECC because it does not increase safety and it unnecessarily exceeds SOLAS requirements. This recommendation has been adopted for the reasons given and because the crew actions involving operation of fixed gas fire extinguishing systems should be the same regardless of manning: evacuate the space, secure the ventilation, and operate the fire extinguishing system from outside the space. Additional control location requirements in the ECC for minimally attended machinery spaces are not considered necessary.

Paragraph (e)(2) of the proposed rule required that either automatic bilge pumps be provided to dewater machinery space locations where liquid might accumulate, or that the ECC be required to include the controls necessary to bring at least one of the bilge pumps required by Subpart 56.50 of this chapter into operation to dewater these locations. Two comments said that control from the ECC of the bilge pumps required by Subpart 56.50 should be mandatory, instead of an option, to allow timely action to counter flooding in an emergency. This recommendation has been adopted and the required alternative of providing automatic bilge pumps has been deleted from paragraph (e)(2) of the final rules. The provision of control of a bilge pump from the ECC has long been one of the required alternatives in NVIC 1-69. Also, it is the intent of SOLAS II-1/31.3 and 48 to ensure the ability to take timely and effective action to counter flooding. Automatic bilge pumps are typically small pumps intended for the removal of routine accumulations that are ineffective to counter flooding.

One comment said that the proposed rule did not adequately address the requirements in SOLAS II-1/48.3 for the location of valve controls for protection against flooding. This was an oversight and a new paragraph (e)(4) has been added to include the provisions of the SOLAS rule, which are essentially the same as the corresponding provision in NVIC 1-69. The new paragraph (e)(4) requires controls for the sea inlet and discharge valves and emergency bilge suction valves to be provided and be so arranged to allow time for operation in the event of flooding with the vessel in the fully loaded condition. Section 62.01-5(d), *Central Control Rooms*, has also been amended to include this provision because it is required by SOLAS II-1/31.3, regardless of manning.

Paragraph (g)(1) requires the ECC to include controls and instrumentation necessary to place the ship service and

propulsion generators in service in 30 seconds. Two comments said that NVIC 1-69 did not have a time criteria of 30 seconds and recommended that the time criteria be deleted. Reasons given were that (1) it is impractical for vessels with two steam turbogenerators to meet the time criteria, (2) the criteria exceed the baseline *Assumption* of the rulemaking that the safety of vessels with automated vital systems must be at least equal to that of a vessel with its vital systems under direct manual supervision, and (3) it would make it difficult for existing vessels with two steam turbo-generators to be automated for the purpose of reducing the crew complement. The 30 second criteria has been retained in the final rules. It is essential to the safety of the vessel to restore ship service and propulsion electrical power as quickly as possible, and this criteria is readily attained by contemporary new-construction to which this rule applies. Existing vessels with steam turbo-generators should be able to comply with the 30 second criteria if they provide a level of safety and electrical power continuity to vital loads equivalent to that required by this rule. It will not apply to existing vessels that do not undergo modification or do not request a change in manning indicated on the certificate of inspection, e.g., vessels previously evaluated under the provisions of NVIC's 1-69 or 6-84.

Proposed paragraph (h)(3) required remote starting and connection from the ECC of manually started or controlled electrical power sources required by Subpart 112.05. This proposal has been deleted because it duplicated the requirements of Subpart 112.35.

Section 62.50-30 Additional Requirements for Periodically Unattended Machinery Plants

Paragraph (a) requires compliance with this section to be met in addition to the requirements in § 62.50-20 (Minimally Attended Machinery Spaces). One comment said that the personnel alarm of § 62.50-20(b)(1) incorporated by this rule should not be required on vessels designed for periodically unattended machinery plant operation because it is an expensive nuisance that serves no purpose on these vessels. The final rule has not been changed. The requirement for the personnel alarm in § 62.50-20(b)(1) is a longstanding requirement of NVIC 1-69 that is intended to monitor crew well-being in the event that an automation failure in a plant designed for periodically unattended operation results in minimally attended operation.

This alarm also permits the master the option of operating the machinery plant in a minimally attended mode, as opposed to a periodically unattended mode.

Proposed paragraph (f) included a note that the requirement for certain ECC alarms to be extended to the engineers' accommodations could be met by operation of the engineers' assistance-needed alarm. One comment recommended deleting this option because one function of the engineers' assistance-needed alarm is to indicate the non-response of the duty engineers to an alarm condition, and if the engineers' assistance-needed alarm fails for any reason, neither the original alarm nor the duty engineers' non-response will be indicated in the engineers' accommodations. This recommendation has been adopted and the note has been deleted for the reasons given.

Paragraph (h) requires a fire control station located outside the machinery spaces. One comment recommended adding to the rule the requirement that control of machinery space oil piping positive shutoff valves required by § 56.50-60(d) be located at this central fire control station. This recommendation has been adopted. The final rule is consistent with NVIC 1-69, SOLAS, and classification society requirements.

Paragraph (j) of the proposed rule required automatic bilge pumps to be provided for periodically unattended machinery spaces. One comment recommended deleting this requirement because it is counterproductive to safety, can give a false sense of security, and because these pumps can permit leaks in machinery piping to go undetected without causing either a bilge high level alarm or an automatic bilge pump excessive run alarm to alert the crew. This comment said that bilge high level alarms provide better protection. This recommendation has been adopted for the reasons stated and because automatic bilge pumps are an option usually provided for removal of routine bilge accumulations. The bilge high level alarms recommended by the comment are required by § 62.50-20(e)(1).

Paragraph (k) of the rule requires the electrical plant to be arranged in such a way that upon failure of any one operating ship service generator, power to the main switchboard loads essential to propulsion, maneuvering, and safety is automatically maintained or restored within 30 seconds. One comment recommended permitting the generator to restore power within 45 seconds, instead of 30 seconds, to coincide with

the requirements of the ABS. This recommendation has not been adopted. It is essential that ship service power be restored as quickly as possible in the event of a blackout. Also, contemporary designs readily comply with this criteria, which has been a longstanding requirement in NVIC 1-69. Relaxation of this safety criteria is not justified.

Section 113.35-3 Engine Order Telegraph Systems, General

Paragraph (f) of the rule requires engine order telegraph and remote propulsion control systems to be separate and independent, except that a single operator control device with separate transmitters and connections for each system may be used. Two comments recommended that the single operator control device be required instead of being an option, because it reduces confusion and is safer because the operator uses the same lever for engine orders in all operating modes. This recommendation has not been adopted. A single operator control device is not being required because it would prevent optional use of numerous independent engine order telegraph system designs that have been used safely and effectively for years.

One comment said the requirement for separate transmitters and connections should be deleted because it is unnecessary and serves no purpose. This recommendation has not been adopted. Separate transmitters and connections are required to permit the engine order telegraph to serve as an independent backup means of passing propulsion orders in the event the remote propulsion control system fails.

Section 111.01-9 Watertight, Waterproof, and Driproof Equipment

Paragraph (b) of the rule requires central control consoles and similar enclosures to be driproof, regardless of location. One comment said that this may not always be possible and alternatives should be offered such as use in dry locations and use of dripshields. These recommendations have not been adopted. Driproof construction to prevent electrical damage or malfunction from dripping, spilling, or sprayed fluids in common practice.

Evaluation and Certification

These regulations are considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A regulatory evaluation has been prepared and placed in the rulemaking docket. The evaluation may be inspected and

copied at the address listed under **ADDRESSES**. Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION**.

CONTACT. The Coast Guard does not have specific monetary information, nor does it have specific information on the type of automation or the number of vessels that would apply for inspection under the rules. The evaluation is based on certain assumptions that characterize current industry practice and trends relating to automation and vessel construction.

The primary benefit of the rules will be increased safety for crewmembers and property. It is estimated that at least \$1.6M per year in damages associated with U.S. flag vessel casualties can be averted by these requirements. It is also estimated that the rules will result in a net savings to the marine industry of \$100,000 per year, or \$5,000 per new vessel, as compared to compliance with previous requirements and guidelines. The primary beneficiaries of these savings will be self-propelled vessel owners and operators, shipyards, and designers and manufacturers of automation systems. The savings will result from the elimination of the requirement for certain equipment that is of questionable safety value, more efficient and consistent evaluation of automation, and the reduction of costs associated with uncertainty and misinterpretation of requirements.

The rules should also produce an estimated annual cost savings for the Coast Guard of \$15,000. These savings will result from possible further Coast Guard delegations of plan review and inspection functions to the ABS, which may reduce certain duplications of effort. The ABS would also benefit monetarily from such a delegation.

This rulemaking contains information collection and recordkeeping requirements in sections 61.40-1(a), 61.40-1(c), 61.40-10(a), 62.50-20(h), 62.50-30(j), and Subpart 62.20. They have been previously submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511, 44 U.S.C. 3501 et seq.) and have been approved. Approval numbers have been assigned as set out in revised § 50.01-20 of these rules.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Coast Guard has determined that this rulemaking does not significantly affect the environment. An Environmental Assessment was prepared in accordance with COMDTINST 16475.1B, National Environmental Policy Act, Implementing Procedures and Policy for Considering Environmental Impacts. The Environmental Assessment is included in the Final Evaluation. A finding of no significant impact (FONSI) has been prepared. The Environmental Assessment and FONSI are available for public inspection and copying in the rulemaking docket at the address listed above under "ADDRESSES."

As the rules substantially involve the design, construction, and operation of large vessels, ferries, and coastal tankers, and freighters over 500 gross tons, the Coast Guard certifies that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 52

Marine safety, Vessels.

46 CFR Part 56

Marine safety, Vessels.

46 CFR Part 58

Oil and gas exploration, Marine safety, Vessels.

46 CFR Part 61

Marine safety, Vessels.

46 CFR Part 62

Electric power, Fire prevention, Incorporation by reference, Marine safety, Vessels.

46 CFR Part 110

Administrative practice and procedure, Coast Guard, Electric power, Vessels.

46 CFR Part 111

Electric power, Marine safety, Vessels.

46 CFR Part 113

Communications equipment, Fire prevention, Vessels.

In consideration of the foregoing, Chapter 1 of Title 46, Code of Federal Regulations is amended as follows:

PART 52—POWER BOILERS

1. The authority citation for Part 52 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46. 2. In § 52.01–10, by revising paragraph (a) to read as follows:

§ 52.01–10 Automatic controls.

(a) Each main boiler must meet the special requirements for automatic safety controls in § 62.35–20(a)(1) of this chapter.

* * * *

3. The authority citation for Part 50 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 46 App. U.S.C. 86; 43 U.S.C. 1333 (d)(1), 1347(c), 1348(c), 1356(a)(2); 49 CFR 1.46.

3a. In § 50.01–20, by revising paragraph (b) to read as follows:

§ 50.01–20 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * *

(b) Display.

46 CFR Part or Section where Identified or Described	Current OMB Control No.
Part 61	2115-0142
Part 62	2115-0548
Part 63	2115-0142

this subchapter to be comparable to an attended space.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

7. The authority citation for Part 58 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46, and all other authority citations in this part are removed.

8. In Subpart 58.01, a new § 58.01–35 is added to read as follows:

§ 58.01–35 Main propulsion auxiliary machinery.

Auxiliary machinery vital to the main propulsion system must be provided in duplicate unless the system served is provided in independent duplicate, or otherwise provides continued or restored propulsion capability in the event of a failure or malfunction of any single auxiliary component.

Note.—Partial reduction of normal propulsion capability as a result of malfunction or failure is acceptable if the reduced capability is not below that necessary for the vessel to run ahead at 7 knots or half speed, whichever is less, and is adequate to maintain control of the ship.

PART 61—PERIODIC TESTS AND INSPECTIONS

9. The authority citation for Part 61 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 49 CFR 1.46.

10. In Part 61, the table of contents is amended and a new Subpart 61.40 is added, to read as follows:

Subpart 61.40—Design Verification and Periodic Testing of Vital System Automation

Sec.

- 61.40–1 General.
- 61.40–3 Design verification testing.
- 61.40–6 Periodic safety tests.
- 61.40–10 Test procedure details.

* * * *

Subpart 61.40—Design Verification and Periodic Testing of Vital System Automation

§ 61.40–1 General.

(a) All automatically or remotely controlled or monitored vital systems addressed by Part 62 of this subchapter must be subjected to tests and inspections to evaluate the operation and reliability of controls, alarms, safety features, and interlocks. Test procedures must be submitted to the Coast Guard for approval.

(b) Persons designated by the owner of the vessel shall conduct all tests and the Design Verification and Periodic

PART 56—PIPING SYSTEMS AND APPURTENANCES

4. The authority citation for Part 56 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

5. In § 56.50–80, by adding a new paragraph (i) to read as follows:

§ 56.50–80 Lubricating oil system.

* * * *

(i) Steam driven propulsion machinery must be provided with an emergency supply of lubricating oil that must operate automatically upon failure of the lubricating oil system. The emergency oil supply must be adequate to provide lubrication until the equipment comes to rest during automatic shutdown.

6. In § 56.50–95, by revising the existing last sentence of paragraph (d)(1) and by adding an additional sentence immediately thereafter to read as follows:

§ 56.50–95 Overboard discharges and shell connections.

* * * *

(d)(1) * * * These controls shall be readily accessible above the floor plates and shall be provided with indication showing whether the valve is opened or closed. Manned machinery spaces include the main machinery space and are either attended by the crew or are automated in accordance with Part 62 of

Safety tests shall be witnessed by the Coast Guard.

(c) Design Verification and Periodic Safety test procedure documents approved by the Coast Guard must be retained aboard the vessel.

§ 61.40-3 Design verification testing.

(a) Tests must verify that automated vital systems are designed, constructed, and operate in accordance with all applicable requirements of Part 62 of this subchapter. The tests must be based upon the failure analysis, if required by § 62.20-3(b) of this subchapter, functional performance requirements, and the Periodic Safety tests of § 61.40-6.

(b) Tests must be performed immediately after the installation of the automated equipment or before the issuance of the initial Certificate of Inspection.

§ 61.40-6 Periodic safety tests.

(a) Periodic Safety tests must demonstrate the proper operation of the primary and alternate controls, alarms, power sources, transfer override arrangements, interlocks, and safety controls. Systems addressed must include fire detection and extinguishing, flooding safety, propulsion, maneuvering, electric power generation and distribution, and emergency internal communications.

(b) Tests must be conducted at periodic intervals specified by the Coast Guard to confirm that vital systems and safety features continue to operate in a safe, reliable manner.

Note.—Normally, these tests are conducted annually.

§ 61.40-10 Test procedure details.

(a) Test procedure documents must be in a step-by-step or checkoff list format. Each test instruction must specify equipment status, apparatus necessary to perform the tests, safety precautions, safety control and alarm setpoints, the procedure to be followed, and the expected test result.

(b) Test techniques must not simulate monitored system conditions by misadjustment, artificial signals, improper wiring, tampering, or revision of the system unless the test would damage equipment or endanger personnel. In the latter case, the use of a synthesized signal or condition applied to the sensor is acceptable if test equipment is maintained in good working order and is periodically calibrated to the satisfaction of the Officer in Charge, Marine Inspection. Other test techniques must be approved by the Commandant (G-MTH).

11. Part 62 is added to 46 CFR Subchapter F to read as follows:

PART 62—VITAL SYSTEM AUTOMATION

Subpart 62.01—General Provisions

Sec.

- 62.01-1 Purpose.
- 62.01-3 Scope.
- 62.01-5 Applicability.

Subpart 62.05—Reference specifications

- 62.05-1 Incorporation by reference.

Subpart 62.10—Terms used

- 62.10-1 Definitions.

Subpart 62.15—Equivalents

- 62.15-1 Conditions under which equivalent may be used.

Subpart 62.20—Plan submittal

- 62.20-1 Plans for approval.
- 62.20-3 Plans for information.
- 62.20-5 Self-certification.

Subpart 62.25—General Requirements for All Automated Vital Systems

- 62.25-1 General.
- 62.25-5 All control systems.
- 62.25-10 Manual alternate control systems.
- 62.25-15 Safety control systems.
- 62.25-20 Instrumentation, alarms, and centralized stations.
- 62.25-25 Programable systems and devices.
- 62.25-30 Environmental design standards.

Subpart 62.30—Reliability and Safety Criteria, All Automated Vital Systems

- 62.30-1 Failsafe.
- 62.30-5 Independence.
- 62.30-10 Testing.

Subpart 62.35—Requirements for Specific Types of Automated Vital Systems

- 62.35-1 General.
- 62.35-5 Remote propulsion control systems.
- 62.35-10 Flooding safety.
- 62.35-15 Fire safety.
- 62.35-20 Oil-fired main boilers.
- 62.35-35 Internal combustion engine starting systems.
- 62.35-40 Fuel systems.
- 62.35-50 Tabulated monitoring and safety control requirements for specific systems.

Subpart 62.50—Automated Self-propelled Vessel Manning

- 62.50-1 General.
- 62.50-20 Additional requirements for minimally attended machinery plants.
- 62.50-30 Additional requirements for periodically unattended machinery plants.

Authority: 46 U.S.C. 3306, 3703, 8105; 49 CFR 1.46.

Subpart 62.01—General Provisions

§ 62.01-1 Purpose.

The purpose of this part is to make sure that the safety of a vessel with automated vital systems, in

maneuvering and all other sailing conditions, is equal to that of the vessel with the vital systems under direct manual operator supervision.

§ 62.01-3 Scope.

(a) This part contains the minimum requirements for vessel automated vital systems. Specifically, this part contains—

(1) In subpart 62.25, the general requirements for all vital system automation;

(2) In subpart 62.30, the criteria used to evaluate the designed reliability and safety of all automated vital systems;

(3) In subpart 62.35, the minimum additional equipment, configuration, and functional requirements necessary when certain vital systems are automated; and

(4) In subpart 62.50, the minimum additional requirements when automated systems are provided to replace specific personnel or to reduce overall crew requirements.

§ 62.01-5 Applicability.

(a) *Vessel/s.* This part applies to self-propelled vessels of 500 gross tons and over that are certificated under Subchapters D, I, or U and to self-propelled vessels of 100 gross tons and over that are certificated under Subchapter H.

(b) *Systems and Equipment.* Except as noted in § 62.05-5(c), this part applies to automation of vital systems or equipment that—

(1) Is automatically controlled or monitored;

(2) Is remotely controlled or monitored; or

(3) Utilizes automation for the purpose of replacing specific personnel or to reduce overall crew requirements.

(c) *Exceptions.* This part does not apply to the following systems and equipment unless they are specifically addressed or unless their failure would degrade the safety and reliability of the systems required by this part:

(1) Automatic auxiliary heating equipment (see part 63 of this subchapter);

(2) Steering systems (see subparts 58.25 and 111.93 of this chapter);

(3) Non-vital and industrial systems;

(4) The communication and alarm systems in part 113 of this chapter.

(d) *Central control rooms.* The requirements of subpart 62.50 only apply to vessels automated to replace specific personnel or to reduce overall crew requirements, except where the main propulsion or ship service electrical generating plants are automatically or remotely controlled from a control room. In this case, § 62.50-20(a)(3) (except the

provision in paragraph 62.50-20(a)(3)(ii) relating to electrical power distribution), (b)(3), (c), (e)(1), (e)(2), (e)(4), and (f)(2) apply, regardless of manning.

Subpart 62.05—Reference Specifications

§ 62.05-1 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register. To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the Federal Register and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and at the Office of Marine Safety, Security, and Environmental Protection (G-MTH-2/12), Room 1218, U.S. Coast Guard Headquarters Building, 2100 Second Street SW., Washington, DC 20593-0001.

(b) The material approved for incorporation by reference in this part is:

(1) Rules for Building and Classing Steel Vessels, 1986, issued by the American Bureau of Shipping. This document is available from: American Bureau of Shipping, 45 Eisenhower Drive, Paramus, New Jersey 07653-0910. Sections affected by this incorporation by reference are: 62.25-1(c), 62.25-5(a), 62.25-30(a)(1), (a)(2), (a)(3), (a)(5), 62.35-5(d), 62.35-35(a), 62.35-40(c), 62.35-50, 62.50-30(c), and 62.50-30(k).

Subpart 62.10—Terms Used

§ 62.10-1 Definitions.

(a) For the purpose of this part:

"Alarm" means an audible and visual indication of a hazardous or potentially hazardous condition that requires attention.

"Automated" means the use of automatic or remote control, instrumentation, or alarms.

"Automatic control" means self-regulating in attaining or carrying out an operator-specified equipment response or sequence.

"Boiler low-low water level" is the minimum safe level in the boiler, in no case lower than that visible in the gage glass (see § 52.01-110 of this chapter, Water Level Indicators).

"Engineering Control Center (ECC)" means the centralized engineering control, monitoring, and communications location.

"Failsafe" means that upon failure or malfunction of a component, subsystem, or system, the output automatically reverts to a pre-determined design state of least critical consequence. Typical

failsafe states are listed in Table 62.10-1(a).

TABLE 62.10-1(a)—TYPICAL FAILSAFE STATES

System or component	Preferred failsafe state
Cooling water valve	As is or open.
Alarm system	Annunciate.
Safety system	Shut down, limited, or as is & alarm.
Burner valve	Closed.
Propulsion speed control	As is.
Feedwater valve	As is or open.
Controllable pitch propeller	As is.
Propulsion safety trip	As is & alarm.
Fuel tank valve	See § 56.50-60(d).

"Flooding safety" refers to flooding detection, watertight integrity, and dewatering systems.

"Independent" refers to equipment arranged to perform its required function regardless of the state of operation, or failure, of other equipment.

"Limit control" means a function of an automatic control system to restrict operation to a specified operating range or sequence without stopping the machinery.

"Local control" means operator control from a location where the equipment and its output can be directly manipulated and observed, e.g., at the switchboard, motor controller, propulsion engine, or other equipment.

"Manual control" means operation by direct or power-assisted operator intervention.

"Monitor" means the use of direct observation, instrumentation, alarms, or a combination of these to determine equipment operation.

"Remote control" means non-local automatic or manual control.

"Safety trip control system" means a manually or automatically operated system that rapidly shuts down another system or subsystem.

"System" means a grouping or arrangement of elements that interact to perform a specific function and typically includes the following, as applicable:

A fuel or power source.

Power conversion elements.

Control elements.

Power transmission elements.

Instrumentation.

Safety control elements.

Conditioning elements.

"Vital system or equipment" is essential to the safety of the vessel, its passengers and crew. This typically includes, but is not limited to, the following:

Fire detection, alarm, and extinguishing systems.

Flooding safety systems.

Ship service and emergency electrical generators, switchgear, and motor control circuits serving vital electrical loads.

The emergency equipment and systems listed in § 112.15 of this chapter.

Propulsion systems, including those provided to meet § 58.01-35.

Steering systems.

Subpart 62.15—Equivalents

§ 62.15-1 Conditions under which equivalents may be used.

(a) The Coast Guard accepts a substitute or alternate for the requirements of this part if it provides an equivalent level of safety and reliability. Demonstration of functional equivalence must include comparison of a qualitative failure analysis based on the requirements of this part with a comparable analysis of the proposed substitute or alternate.

Subpart 62.20—Plan Submittal

§ 62.20-1 Plans for approval.

(a) The following plans must be submitted to the Coast Guard for approval in accordance with § 50.20-5 and § 50.20-10 of this chapter:

(1) A general arrangement plan of control and monitoring equipment, control locations, and the systems served.

(2) Control and monitoring console, panel, and enclosure layouts.

(3) Schematic or logic diagrams including functional relationships, a written description of operation, and sequences of events for all modes of operation.

(4) A description of control or monitoring system connections to non-vital systems.

(5) A description of programmable features.

(6) A description of built-in test features and diagnostics.

(7) Design Verification and Periodic Safety test procedures described in subpart 61.40 of this chapter.

(8) Control system normal and emergency operating instructions.

§ 62.20-3 Plans for information.

(a) One copy of the following plans must be submitted to the Officer in Charge, Marine Inspection, for use in the evaluation of automated systems provided to replace specific personnel or to reduce overall crew requirements:

(1) Proposed manning, crew organization and utilization, including routine maintenance, all operational evolutions, and emergencies.

(2) A planned maintenance program for all vital systems.

(b) One copy of a qualitative failure analysis must be submitted in accordance with § 50.20-5 of this chapter for the following:

- (1) Propulsion controls.
- (2) Microprocessor-based system hardware.
- (3) Safety controls.
- (4) Automated electric power management.
- (5) Automation required to be independent that is not physically separate.

(6) Any other automation that, in the judgement of the Commandant, potentially constitutes a safety hazard to the vessel or personnel in case of failure.

Note.—The qualitative failure analysis is intended to assist in evaluating the safety and reliability of the design. It should be conducted to a level of detail necessary to demonstrate compliance with applicable requirements and should follow standard qualitative analysis procedures.

Assumptions, operating conditions considered, failures considered, cause and effect relationships, how failures are detected by the crew, alternatives available to the crew, and possible design verification tests necessary should be included. Questions regarding failure analysis should be referred to the Marine Safety Center at an early stage of design.

§ 62.20-5 Self-certification.

(a) The designer or manufacturer of an automated system shall certify to the Coast Guard, in writing, that the automation is designed to meet the environmental design standards of § 62.25-30. Plan review, shipboard testing, or independent testing to these standards is not required.

Note.—Self-certification should normally accompany plan submittal.

Subpart 62.25—General Requirements for All Automated Vital Systems

§ 62.25-1 General.

(a) Vital systems that are automatically or remotely controlled must be provided with—

- (1) An effective primary control system;
- (2) A manual alternate control system;
- (3) A safety control system, if required by § 62.25-15;
- (4) Instrumentation to monitor system parameters necessary for the safe and effective operation of the system; and
- (5) An alarm system if instrumentation is not continuously monitored or is inappropriate for detection of a failure or unsafe condition.

(b) Automation systems or subsystems that control or monitor more than one safety control, interlock, or

operating sequence must perform all assigned tasks continuously, i.e., the detection of unsafe conditions must not prevent control or monitoring of other conditions.

(c) Vital control and alarm system consoles and similar enclosures that rely upon forced cooling for proper system operation must meet section 41.23.2 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

§ 62.25-5 All control systems.

(a) Controls for engines and turbines equipped with jacking or turning gear must meet section 41.21.4 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

(b) Automatic control systems must be stable over the entire range of normal operation.

(c) Inadvertent grounding of an electrical or electronic safety control system must not cause safety control operation or safety control bypassing.

§ 62.25-10 Manual alternate control systems.

(a) Manual alternate control systems must—

(1) Be operable in an emergency and after a remote or automatic primary control system failure;

(2) Be suitable for manual control for prolonged periods;

(3) Be readily accessible and operable; and

(4) Include means to override automatic controls and interlocks, as applicable.

(b) Permanent communications must be provided between primary remote control locations and manual alternate control locations if operator attendance is necessary to maintain safe alternate control.

Note.—Typically, this includes main boiler fronts and local propulsion control.

§ 62.25-15 Safety control systems.

(a) Minimum safety trip controls required for specific types of automated vital systems are listed in Table 62.35-50.

Note.—Safety control systems include automatic and manual safety trip controls and automatic safety limit controls.

(b) Safety trip controls must not operate as a result of failure of the normal electrical power source unless it is determined to be the failsafe state.

(c) Automatic operation of a safety control must be alarmed in the machinery spaces and at the cognizant remote control location.

(d) Local manual safety trip controls must be provided for all main boilers,

turbines, and internal combustion engines.

(e) Automatic safety trip control systems must—

(1) Be provided where there is an immediate danger that a failure will result in serious damage, complete breakdown, fire, or explosion;

(2) Require manual reset prior to renewed operation of the equipment; and

(3) Not be provided if safety limit controls provide a safe alternative and trip would result in loss of propulsion.

§ 62.25-20 Instrumentation, alarms, and centralized stations.

(a) *General.* Minimum instrumentation and alarms required for specific types of automated vital systems are listed in Table 62.35-50.

(b) *Instrumentation Location.* (1) Manual control locations, including remote manual control and manual alternate control, must be provided with the instrumentation necessary for safe operation from that location.

Note.—Typically, instrumentation includes means to monitor the output of the monitored system.

(2) Systems with remote instrumentation must have provisions for the installation of instrumentation at the monitored system equipment.

(3) The status of automatically or remotely controlled vital auxiliaries, power sources, switches, and valves must be visually indicated in the machinery spaces or the cognizant remote control location, as applicable.

Note.—Status indicators include run, standby, off, open, closed, tripped, and on, as applicable. Status indicators at remote control locations other than the ECC, if provided, may be summarized. Equipment normally provided with status indicators are addressed in Table 62.35-50 and Subparts 58.01, 56.50, and 112.45.

(4) Sequential interlocks provided in control systems to ensure safe operation, such as boiler programming control or reversing of propulsion diesels, must have summary indicators in the machinery spaces and at the cognizant control location to show if the interlocks are satisfied.

(5) Instrumentation listed in Table 62.35-50 must be of the continuous display type or the demand display type. Displays must be in the ECC or in the machinery spaces if an ECC is not provided.

(c) *Instrumentation details.* Demand instrumentation displays must be clearly readable and immediately available to the operator.

(c) *Alarms.* (1) All alarms must clearly distinguish among—

(i) Normal, alarm, and acknowledged alarm conditions; and
 (ii) Fire, general alarm, CO₂/halon, vital machinery, flooding, engineers' assistance-needed, and non-vital alarms.

(2) Required alarms in high ambient noise areas must be supplemented by visual means, such as rotating beacons, that are visible throughout these areas. Red beacons must only be used for general or fire alarm purposes.

(3) Automatic transfer to required backup or redundant systems or power sources must be alarmed in the machinery spaces.

(4) Flooding safety, fire, loss of power, and engineers' assistance-needed alarms extended from the machinery spaces to a remote location must not have a duty crewmember selector.

Note.—Other alarms may be provided with such a selector, provided there is no off position.

(5) Automation alarms must be separate and independent of the following:

(i) The fire detection and alarm systems.

(ii) The general alarm.

(iii) CO₂/halon release alarms.

(6) Failure of an automatic control, remote control, or alarm system must be immediately alarmed in the machinery spaces and at the ECC, if provided.

(e) *Alarm details.* (1) All alarms must—

(i) Have a manual acknowledgement device (No other means to reduce or eliminate the annunciated signal may be provided except dimmers described in paragraph (g)(2) of this section);

(ii) Be continuously powered;

(iii) Be provided with a means to test audible and visual annunciations;

(iv) Provide for normal equipment starting and operating transients and vessel motions, as applicable, without actuating the alarm;

(v) Be able to simultaneously indicate more than one alarm condition, as applicable;

(vi) Visually annunciate until the alarm is manually acknowledged and the alarm condition is cleared;

(vii) Audibly annunciate until manually acknowledged;

(viii) Not prevent annunciation of subsequent alarms because of previous alarm acknowledgement; and

(ix) Automatically reset to the normal operating condition only after the alarm has been manually acknowledged and the alarm condition is cleared.

(2) Visual alarms must initially indicate the equipment or system malfunction without operator intervention.

(3) Power failure alarms must monitor on the load side of the last supply protective device.

(f) *Summarized and grouped alarms.* Visual alarms at a control location that are summarized or grouped by function, system, or item of equipment must—

(1) Be sufficiently specific to allow any necessary action to be taken; and

(2) Have a display at the equipment or an appropriate control location to identify the specific alarm condition or location.

(g) *Central control locations.* (1) Central control locations must—

(i) Be arranged to allow the operator to safely and efficiently communicate, control, and monitor the vital systems under normal and emergency conditions, with a minimum of operator confusion and distraction;

(ii) Be on a single deck level; and

(iii) Co-locate control devices and instrumentation to allow visual assessment of system response to control input.

(2) Visual alarms and instruments on the navigating bridge must not interfere with the crew's vision. Dimmers must not eliminate visual indications.

(3) Alarms and instrumentation at the main navigating bridge control location must be limited to those that require the attention or action of the officer on watch, are required by this chapter, or that would result in increased safety.

§ 62.25-25 Programable systems and devices.

(a) programable control or alarm system logic must not be altered after Design Verification testing without the approval of the cognizant Officer in Charge, Marine Inspection (OCMI). (See subpart 61.40 of this subchapter, Design Verification Tests). Safety control or automatic alarm systems must be provided with means, acceptable to the cognizant OCMI, to make sure setpoints remain within the safe operating range of the equipment.

(b) Operating programs for microprocessor-based or computer-based vital control, alarm, and monitoring systems must be stored in non-volatile memory and automatically operate on supply power resumption.

(c) If a microprocessor-based or computer-based system serves both vital and non-vital systems, hardware and software priorities must favor the vital systems.

(d) At least one copy of all required manuals, records, and instructions for automatic or remote control or monitoring systems required to be aboard the vessel must not be stored in electronic or magnetic memory.

§ 62.25-30 Environmental design standards.

(a) All automation must be suitable for the marine environment and must be designed and constructed to operate indefinitely under the following conditions:

(1) Ship motion and vibration described in Section 41.37 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

Note.—Inclination requirements for fire and flooding safety systems are described in § 112.05-5(c) of this chapter.

(2) Ambient air temperatures described in Section 41.29.1 and 41.29.2 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

(3) Electrical voltage and frequency tolerances described in Section 41.29.3 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

(4) Relative humidity of 0 to 95% at 45 °C.

(5) Hydraulic and pneumatic pressure variations described in Section 41.39.3e of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

Note.—Considerations should include normal dynamic conditions that might exceed these values, such as switching, valve closure, power supply transfer, starting, and shutdown.

(b) Low voltage electronics must be designed with due consideration for static discharge, electromagnetic interference, voltage transients, fungal growth, and contact corrosion.

Subpart 62.30—Reliability and Safety Criteria, All Automated Vital Systems

§ 62.30-1 Failsafe.

(a) The failsafe state must be evaluated for each subsystem, system, or vessel to determine the least critical consequence.

(b) All automatic control, remote control, safety control, and alarm systems must be failsafe.

§ 62.30-5 Independence.

(a) Single non-concurrent failures in control, alarm, or instrumentation systems, and their logical consequences, must not prevent sustained or restored operation of any vital system or systems.

(b) Except as provided in paragraphs (b)(2) and (b)(3) of this section, primary control, alternate control, safety control, and alarm and instrumentation systems for any vital system must be independent of each other.

(b)(2) Independent sensors are not required except that sensors for primary speed, pitch, or direction of rotation control in closed loop propulsion control systems must be independent and physically separate from required safety control, alarm, or instrumentation sensors.

(b)(3) The safety trip control of § 62.35-5(b)(2) must be independent and physically separate from all other systems.

(c) Two independent sources of power must be provided for all primary control, safety control, instrumentation and alarm systems. Failure of the normal source of power must actuate an alarm in the machinery spaces. One source must be from the emergency power source (see part 112 of this chapter, Emergency Lighting and Power Systems) unless one of the sources is—

(1) Derived from the power supply of the system being controlled or monitored;

(2) A power take-off of that system; or
 (3) An independent power source equivalent to the emergency power source.

§ 62.30-10 Testing.

(a) Automated vital systems must be tested in accordance with subpart 61.40 of this chapter.

(b) On-line built-in test equipment must not lock out or override safety trip control systems. This equipment must indicate when it is active.

Subpart 62.35—Requirements for Specific Types of Automated Vital Systems

§ 62.35-1 General.

(a) Minimum instrumentation, alarms, and safety controls required for specific types of automated vital systems are listed in Table 62.35-50.

(b) Automatic propulsion systems, automated electric power management systems, and all associated subsystems and equipment must be capable of meeting load demands from standby to full system rated load, under steady state and maneuvering conditions, without need for manual adjustment or manipulation.

§ 62.35-5 Remote propulsion control systems.

(a) *Manual propulsion control.* All vessels having remote propulsion control from the navigating bridge, an ECC or maneuvering platform, or elsewhere must have a manual alternate propulsion control located at the equipment.

Note.—Separate local control locations may be provided for each independent propeller.

(b) *Centralized propulsion control equipment.* Navigating bridge, ECC, maneuvering platform, and manual alternate control locations must include—

(1) Control of the speed and direction of thrust for each independent propeller controlled;

(2) A guarded manually actuated safety trip control (which stops the propelling machinery) for each independent propeller controlled;

(3) Shaft speed and thrust direction indicators for each independent propeller controlled;

(4) The means to pass propulsion orders required by § 113.30-5 and § 113.35-3 of this chapter; and

(5) The means required by paragraph (e) of this section to achieve control location transfer and independence.

(c) *Main navigating bridge propulsion control.* (1) Navigating bridge remote propulsion control must be performed by a single control device for each independent propeller. Control must include automatic performance of all associated services, and must not permit rate of movement of the control device to overload the propulsion machinery.

(2) On vessels propelled by steam turbines, the navigation bridge primary control system must include safety limit controls for high and low boiler water levels and low steam pressure. Actuation of these limits must be alarmed on the navigating bridge and at the maneuvering platform or ECC.

(3) On vessels propelled by internal combustion engines, an alarm must annunciate on the navigating bridge and at the maneuvering platform or ECC, if provided, to indicate starting capability less than 50% of that required by § 62.35-5(a). If the primary remote control system provides automatic starting, the number of automatic consecutive attempts that fail to produce a start must be limited to reserve 50% of the required starting capability.

(d) *Control location transfer.* Control location transfer must meet Sections 41.19.3 and 41.19.4 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels." Manual alternate propulsion control locations must be capable of overriding and operating independent of all remote and automatic control locations.

(e) *Control system details.* (1) Each operator control device must have a detent at the zero thrust position.

(2) Propulsion machinery automatic safety trip control operation must only occur when continued operation could result in serious damage, complete breakdown, or explosion of the equipment. Other than the overrides mentioned in § 62.25-10(a)(4) and

temporary overrides located at the main navigating bridge control location, overrides of these safety trip controls are prohibited. Operation of permitted overrides must be alarmed at the navigating bridge and at the maneuvering platform or ECC, as applicable, and must be guarded against inadvertent operation.

(3) Remote propulsion control systems must be failsafe by maintaining the preset (as is) speed and direction of thrust until local manual or alternate manual control is in operation, or the manual safety trip control operates. Failure must activate alarms on the navigating bridge and in the machinery spaces.

§ 62.35-10 Flooding safety.

(a) Automatic bilge pumps must—

(1) Be provided with bilge high level alarms that annunciate in the machinery spaces and at a manned control location and are independent of the pump controls;

(2) Be monitored to detect excessive operation in a specified time period; and

(3) Meet all applicable pollution control requirements.

(b) Remote controls for flooding safety equipment must remain functional under flooding conditions to the extent required for the associated equipment by § 56.50-50 and § 56.50-95 of this chapter.

(c) Remote bilge level sensors, where provided, must be located to detect flooding at an early stage and to provide redundant coverage.

§ 62.35-15 Fire safety.

(a) All required fire pump remote control locations must include the controls necessary to charge the firemain and—

(1) A firemain pressure indicator; or
 (2) A firemain low pressure alarm.

§ 62.35-20 Oil-fired main boilers.

(a) *General.* (1) All main boilers, regardless of intended mode of operation, must be provided with the automatic safety trip control system(s) of paragraphs (h)(1), (h)(2)(i), (h)(2)(ii), and (i) of this section to prevent unsafe conditions after light off.

(2) Manual alternate control of boilers must be located at the boiler front.

(3) A fully automatic main boiler must include—

(i) Automatic combustion control;
 (ii) Programing control;
 (iii) Automatic feedwater control;
 (iv) Safety controls; and
 (v) An alarm system.

(4) Following system line-up and starting of auxiliaries, fully automatic

main boilers must only require the operator to initiate the following sequences:

- (i) Boiler pre-purge.
- (ii) Trial for ignition of burners subsequent to successful initial burner light-off.
- (iii) Normal shutdown.
- (iv) Manual safety trip control operation.
- (v) Adjustment of primary control setpoints.

(5) All requirements for programing control subsystems and safety control systems must be met when a boiler—

- (i) Automatically sequences burners;
- (ii) Is operated from a location remote from the boiler front; or
- (iii) Is fully automatic.

(6) Where light oil pilots are used, the programing control and burner safety trip controls must be provided for the light oil system. Trial for ignition must not exceed 15 seconds and the main burner trial for ignition must not proceed until the pilot flame is proven.

Note: Light oil is defined in § 63.05-75(a) of this chapter.

(b) *Feedwater control.* Automatic feedwater control subsystems must sense, at a minimum, boiler water level and steam flow.

(c) *Combustion control.* Automatic combustion control subsystems must provide—

(1) An air/fuel ratio which ensures complete combustion and stable flame with the fuel in use, under light off, steady state, and transient conditions; and

(2) Stable boiler steam pressure and outlet temperatures under steady state and transient load conditions; and

(3) A low fire interlock to prevent high firing rates and superheater damage during boiler warm up.

(d) *Programing control.* The programing control must provide a programed sequence of interlocks for the safe ignition and normal shutdown of the boiler burners. The programing control must prevent ignition if unsafe conditions exist and must include the following minimum sequence of events and interlocks:

(1) *Prepurge.* Boilers must undergo a continuous purge of the combustion chamber and convecting spaces to make sure of a minimum of 5 changes of air. The purge must not be less than 15 seconds in duration, and must occur immediately prior to the trial for ignition of the initial burner of a boiler. All registers and dampers must be open and

an air flow of at least 25 percent of the full load volumetric air flow must be proven before the purge period commences. The prepurge must be complete before trial for ignition of the initial burner.

Note: A pre-purge is not required immediately after a complete post-purge.

(2) *Trial for ignition and ignition.* (i) Only one burner per boiler is to be in trial for ignition at any time.

(ii) Total boiler air flow during light off must be sufficient to prevent pocketing and explosive accumulations of combustible gases.

(iii) The burner igniter must be in position and proven energized before admission of fuel to the boiler. The igniter must remain energized until the burner flame is established and stable, or until the trial for ignition period ends.

(iv) The trial for ignition period must be as short as practical for the specific installation, but must not exceed 15 seconds.

(v) Failure of the burner to ignite during a trial for ignition must automatically actuate the burner safety trip controls.

(3) *Post-purge.* (i) Immediately after normal shutdown of the boiler, an automatic purge of the boiler equal to the volume and duration of the prepurge must occur.

(ii) Following boiler safety trip control operation, the air flow to the boiler must not automatically increase. Post purge in such cases must be under manual control.

(e) *Burner fuel oil valves.* Each burner must be provided with a valve that is—

(1) Automatically closed by the burner or boiler safety trip control system; and

(2) Operated by the programming control or combustion control subsystems, as applicable.

(f) *Master fuel oil valves.* Each boiler must be provided with a master fuel oil valve to stop fuel to the boiler automatically upon actuation by the boiler safety trip control system.

(g) *Valve closure time.* The valves described in paragraphs (e) and (f) of this section must close within 4 seconds of automatic detection of unsafe trip conditions.

(h) *Burner safety trip control system.*

(1) Each burner must be provided with at least one flame detector.

(2) The burner valve must automatically close when—

(i) Loss of burner flame occurs;

(ii) Actuated by the boiler safety trip control system;

(iii) The burner is not properly seated or in place; or

(iv) Trial for ignition fails, if a programing control is provided.

(i) *Boiler safety trip control system.*

(1) Each boiler must be provided with a safety trip control system that automatically closes the master and all burner fuel oil valves upon—

(i) Boiler low-low water level;

(ii) Inadequate boiler air flow to support complete combustion;

(iii) Loss of boiler control power;

(iv) Manual safety trip operation; or

(v) Loss of flame at all burners.

(2) The low-low water level safety trip control must account for normal vessel motions and operating transients.

§ 62.35-35 Internal combustion engine starting systems.

(a) The starting system for propulsion engines and ship service generator prime movers required to automatically start must meet Sections 34.23.3, 34.37.2, and 34.39 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels," except the sections referenced therein.

§ 62.35-40 Fuel systems.

(a) *Level alarms.* Where high or low fuel tank level alarms are required, they must be located to allow the operator adequate time to prevent an unsafe condition.

(b) *Coal fuels.* (1) Controls and instrumentation for coal systems require special consideration by the Commandant (G-MTH).

(2) Interlocks must be provided to ensure a safe transfer of machinery operation from one fuel to another.

(c) *Automatic fuel heating.* Automatic fuel heating arrangements must meet Section 41.78.1 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

(d) *Overflow prevention.* Fuel oil day tanks, settlers, and similar fuel oil service tanks that are filled automatically or by remote control must be provided with a high level alarm that annunciates in the machinery spaces and either an automatic safety trip control or an overflow arrangement.

§ 62.35-50 Tabulated monitoring and safety control requirements for specific systems.

(a) The minimum instrumentation, alarms, and safety controls required for specific types of systems are listed in Table 62.35-50.

TABLE 62.35-50—MINIMUM SYSTEM MONITORING AND SAFETY CONTROL REQUIREMENTS FOR SPECIFIC SYSTEMS⁽¹⁾

System	Service	Instrumentation	Alarm	Safety control	Notes
Main (Propulsion) boiler.	(¹)	(¹)	(¹)		(^{2, 3})
	Supply casing and uptakes				
	Burner flame	Status	Fire...	Burner auto trip	(³)
	Burner seating	Status	Failure	...do	(³)
	Trial for ignition	Status	Failure	...do	(³)
	Control power	Available (pressure)	Failure (low)	...do	(³)
				Manual trip	(³)
	Burner valve	Open/closed			
	Low fire interlock	Status			
	Program control interlock	Status			
Main (Propulsion steam) turbine.	(²)	(²)	(²)		(^{4, 5})
Main propulsion, diesel.	(¹)	(¹)	(¹)	Manual trip	(^{4, 5})
Main propulsion, remote control.			Failure	Manual trip	
			...do		
Main propulsion, electric.		Auto safety trip override	Activated		
Main propulsion, shafting.		Starting power	Low ...	Limit ...	(²)
		Location in control	Override		(²)
		Shaft speed/direction/pitch	(³)		(²)
		Clutch fluid	Pressure	(³)	(²)
Main propulsion, controllable pitch propeller.		Stern tube oil tank level	Low		
		Line shaft bearing	Temperature, forced lubrication	High	
		Hydraulic oil	Pressure	Low	
			Pressure	High, Low	
Generators		Ship service	Temperature	High	
		(¹)	(¹)		
		Starting pressure/voltage	Low		
		(⁵)	(⁵)		
		(^{1, 6})	(^{1, 6})		
		Emergency	(⁵)	(⁵)	(⁵)
		Turbogenerator	(^{1, 6})	(^{1, 6})	
		Diesel	(^{1, 7})	(^{1, 7})	(²)
Auxiliary boiler		Run	Tripped	Manual trip	
Gas turbine	(⁸)	(⁸)			
Engines and turbines.		Jacking/turning gear	Engaged	Manual trip	
Fuel oil	(⁹)				
		Remote/auto fill level	(⁹)	High	
Bilge		Hi. press. leakage level		Auto trip or overflow arrangement.	
		Pump remote control			
		Pump auto control			
		Level			
Machinery space CL3 W.T. doors.			Open/closed		
Fire detection		Machinery spaces			(⁹)
Fire main		Pressure	Space on fire		
Personnel			Low		
General, control and alarm systems.		Deadman	Fail to acknowledge		(¹⁰)
		Power supply	Failure (low)		
Redundant auxiliary, system, power supply.		System function	Failure		(¹¹)
		Console air conditioning	Failure		
		Built in test equipment			
		Sequential interlock			
		Safety control			
		Active	Activated		
		Activated			
		Status	Auto transfer	Auto trip/limit	

¹ See ABS Table 41.1.² See ABS Table 41.1, except Shaft Roller.³ See § 113.37 of this chapter.⁴ See subparts 111.33 and 111.35 of this chapter.⁵ See subparts 112.45 and 112.50 of this chapter.⁶ See § 111.12-1(c) of this chapter.⁷ See § 111.12-1 (b), (c) of this chapter.⁸ See § 58.10-15(g) of this chapter.⁹ See ABS Table 41.1, "Additional Services."

Notes on Table 62.35-50:

1. The monitoring and controls listed in this table are applicable if the system listed is provided or required. References to ABS Table 41.1 apply to the "Operation," "Display," "Alarm," and "Notes" 1 through 12, except the reference to ACCU in Note 11.

2. Safety limit controls must be provided in navigating bridge primary propulsion control systems. See § 62.35-5(c).

3. Safety trip controls and alarms must be provided for all main boilers, regardless of mode of operation. See § 62.35-20(a).

4. Loss of forced lubrication safety trip controls must be provided, as applicable.

5. Override of overspeed and loss of forced lubrication pressure safety trip controls must not be provided. See § 62.35-5(e)(2).

6. Transfer interlocks must be provided.

7. Semiconductor controlled rectifiers must have current limit controls.

8. Interlocks must be provided. See § 62.25-5(a).

9. See subparts 113.10, 161.002, and fire protection requirements of the applicable subchapters. The use of thermal detectors alone is subject to special consideration by the Commandant (G-MTH). Flame detectors may only be used in conjunction with smoke or heat detectors.

10. See § 62.50-20(b)(1).

11. Alarms and controls must be failsafe. See § 62.30-1.

12. Vital auxiliary boilers only. Also see Part 63.

Subpart 62.50—Automated Self-propelled Vessel Manning**§ 62.50-1 General.**

(a) Where automated systems are provided to replace specific personnel in the control and observation of the engineering plant and spaces, or reduce overall crew requirements, the arrangements must make sure that under all sailing conditions, including maneuvering, the safety of the vessel is equal to that of the same vessel with the entire plant under fully attended direct manual supervision.

(b) Coast Guard acceptance of automated systems to replace specific personnel or to reduce overall crew requirements is predicated upon—

(1) The capabilities of the automated systems;

(2) The combination of the personnel, equipment, and systems necessary to ensure the safety of the vessel, personnel, and environment in all sailing conditions, including maneuvering;

(3) The ability of the crew to perform all operational evolutions, including emergencies such as fire or control or monitoring system failure;

(4) A planned maintenance program including routine maintenance.

inspection, and testing to ensure the continued safe operation of the vessel; and

(5) The automated system's demonstrated reliability during an initial trial period, and its continuing reliability.

Note: The cognizant Officer in Charge, Marine Inspection, (OCMI) also determines the need for more or less equipment depending on the vessel characteristics, route, or trade.

(c) Equipment provided to replace specific personnel or to reduce overall crew requirements that proves unsafe or unreliable in the judgment of the cognizant Officer in Charge, Marine Inspection, must be immediately replaced or repaired or vessel manning will be modified to compensate for the equipment inadequacy.

§ 62.50-20 Additional requirements for minimally attended machinery plants.

Note: Minimally attended machinery plants include vessel machinery plants and spaces that are automated, but not to a degree where the plant could be left unattended. Emphasis is placed on the centralized remote control and monitoring of the machinery plant and machinery spaces.

(a) *General.* (1) Navigating bridge propulsion control must be provided.

(2) An ECC must be provided and must include the automatic and remote control and monitoring systems necessary to limit the operator's activity to monitoring the plant, initiating programmed control system sequences, and taking appropriate action in an emergency.

(3) The ECC must include control and monitoring of all vital engineering systems, including—

(i) The propulsion plant and its auxiliaries;

(ii) Electrical power generation and distribution;

(iii) Machinery space fire detection, alarm, and extinguishing systems; and

(iv) Machinery space flooding safety systems.

(4) ECC control of vital systems must include the ability to place required standby systems, auxiliaries, and power sources in operation, unless automatic transfer is provided, and to shut down such equipment when necessary.

Note: ECC remote control need not include means for a single operator to bring the plant to standby from a cold plant or dead ship condition or controls for non-vital systems or equipment.

(b) *Alarms and instrumentation.* (1) A personnel alarm must be provided and must annunciate on the bridge if not routinely acknowledged at the ECC or in the machinery spaces.

(2) Continuous or demand instrumentation displays must be provided at the ECC to meet the system and equipment monitoring requirements of this part if the ECC is to be continuously attended. If the watchstander's normal activities include maintenance, a roving watch, or similar activities in the machinery spaces but not at the ECC, both alarms and instrumentation must be provided.

(3) All required audible alarms must annunciate throughout the ECC and machinery spaces.

(c) *Fire detection and alarms.* An approved automatic fire detection and alarm system must be provided to monitor all machinery spaces. The system must activate all alarms at the ECC, the navigating bridge, and throughout the machinery spaces and engineers' accommodations. The ECC and bridge alarms must visually indicate which machinery space is on fire, as applicable.

Note: For purposes of this part, the specific location of fires that are not in machinery spaces need not be indicated.

(d) *Fire pumps.* (1) The ECC must include control of the main machinery space fire pumps.

(2) Remote control of a required fire pump must be provided from the navigating bridge. Where one or more fire pumps is required to be independent of the main machinery space, at least one such pump must be controlled from the navigating bridge.

(e) *Flooding safety.* (1) Machinery space bilges, bilge wells, shaft alley bilges, and other minimally attended locations where liquids might accumulate must be monitored from the ECC to detect flooding angles from vertical of up to 15° heel and 5° trim.

(2) ECC must include the controls necessary to bring at least one of the bilge pumps required by subpart 56.50 of this chapter into operation to counter flooding in the locations listed in paragraph (e)(1).

(3) Where watertight doors in subdivision bulkheads are required in the machinery spaces, they must be Class 3 watertight doors and must be controllable from the ECC and the required navigating bridge control location.

(4) Controls must be provided to operate the sea inlet and discharge valves required by § 56.50-95(d) of this chapter and the emergency bilge suction required by § 56.50-50(f). These controls must be arranged to allow time for operation in the event of flooding with the vessel in the fully loaded condition. Time considerations must include detection, crew response, and control operation time.

(f) *Communications.* (1) A means must be provided at the ECC to selectively summon any engineering department member from the engineering accommodations to the ECC.

(2) The voice communications system required by § 113.30-5(a) of this chapter must also include the engineering officers' accommodations.

(g) *Electrical systems.* (1) The ECC must include the controls and instrumentation necessary to place the ship service and propulsion generators in service in 30 seconds.

(2) The main distribution and propulsion switchboards and generator controls must either be located at the ECC, if the ECC is within the boundaries of the main machinery space, or the controls and instrumentation required by Part 111 of this chapter must be duplicated at the ECC. Controls at the switchboard must be able to override those at the ECC, if separate. Also see § 111.12-11(g) and § 111.30-1(a)(4) regarding switchboard location.

(g) *Maintenance program.* (1) The vessel must have a planned maintenance program to ensure continued safe operation of all vital systems. Program content and detail is optional, but must include maintenance and repair manuals for work to be accomplished by maintenance personnel and checkoff lists for routine inspection and maintenance procedures.

(2) The planned maintenance program must be functioning prior to the completion of the evaluation period for reduced manning required by § 62.50-1(b)(5).

(3) Maintenance and repair manuals must include details as to what, when, and how to troubleshoot, repair and test the installed equipment and what parts are necessary to accomplish the procedures. Schematic and logic diagrams required by § 62.20-1 of this part must be included in this documentation. Manuals must clearly delineate information that is not applicable to the installed equipment.

§ 62.50-30 Additional requirements for periodically unattended machinery plants.

Note. Periodically unattended machinery plants include machinery plants and spaces that are automated to the degree that they are

self-regulating and self-monitoring and could safely be left periodically unattended. Emphasis is placed on providing systems that act automatically until the crew can take action in the event of a failure or emergency. Requirements are in addition to those of a minimally attended machinery plant.

(a) *General.* The requirements of this section must be met in addition to those of § 62.50-20 of this part.

(b) *Automatic transfer.* Redundant vital auxiliaries and power sources must automatically transfer to the backup units upon failure of operating units.

(c) *Fuel systems.* The fuel service and treatment system(s) must meet Section 41.77.1 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

(d) *Starting systems.* Automatic or remote starting system receivers, accumulators, and batteries must be automatically and continuously charged.

(e) *Assistance-needed alarm.* The engineer's assistance-needed alarm (see subpart 113.27 of this chapter) must annunciate if—

(1) An alarm at the ECC is not acknowledged in the period of time necessary for an engineer to respond at the ECC from the machinery spaces or engineers' accommodations; or

(2) An ECC alarm system normal power supply fails.

(f) *Remote alarms.* ECC alarms for vital systems that require the immediate attention of the bridge watch officer for the safe navigation of the vessel must be extended to the bridge. All ECC alarms required by this part must be extended to the engineers' accommodations. Other than fire or flooding alarms, this may be accomplished by summarized visual alarm displays.

(g) *ECC alarms.* All requirements of this part for system or equipment monitoring must be met by providing both displays and alarms at the ECC.

(h) *Fire control station.* A control station for fire protection of the machinery spaces must be provided outside the machinery spaces. At least one access to this station must be independent of category A machinery spaces, and any boundary shared with these spaces must have an A-60 fire classification as defined in § 72.05 of this chapter. Except where such an arrangement is not possible, control and monitoring cables and piping for the station must not adjoin or penetrate the boundaries of a category A machinery space, uptakes, or casings. The fire control station must include—

(1) Annunciation of which machinery space is on fire;

(2) Control of a fire pump required by this chapter to be independent of the main machinery spaces;

(3) Controls for machinery space fixed gas fire extinguishing systems;

(4) Control of oil piping positive shutoff valves located in the machinery spaces and required by § 56.50-60(d);

(5) Controls for machinery space fire door holding and release systems, skylights and similar openings;

(6) The remote stopping systems for the machinery listed in § 111.103 of this chapter; and

(7) Voice communications with the bridge.

(i) *Oil leakage.* Leakages from high pressure fuel oil pipes must be collected and high levels must be alarmed at the ECC.

(j) *Maintenance program.* The maintenance program of § 62.50-20(h) must include a checkoff list to make sure that routine daily maintenance has been performed, fire and flooding hazards have been minimized, and plant status is suitable for unattended operation. Completion of this checkoff list must be logged before leaving the plant unattended.

(k) *Continuity of electrical power.* The electrical plant must meet Sections 41.75.1 and 41.75.3 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels" and must—

(1) Not use the emergency generator for this purpose;

(2) Restore power in not more than 30 seconds; and

(3) Account for loads permitted by § 111.70-3(f) of this chapter to automatically restart.

PART 110—GENERAL PROVISIONS

12. The authority citation for Part 110 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104; 49 CFR 1.46.

13. In § 110.25-1, by removing the existing paragraphs (i) and (j) and renumbering the existing paragraphs (k) through (p) as (i) through (n), respectively.

PART 111—ELECTRIC SYSTEMS—GENERAL REQUIREMENTS

14. The authority citation for Part 111 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104; 49 CFR 1.46.

15. In Subpart 111.01, § 111.01-9 is revised to read as follows:

§ 111.01-9 Watertight, waterproof, and dripproof equipment.

(a) Electric equipment exposed to the weather or located in a space where it is exposed to seas, splashing, or similar moisture conditions must be watertight

or be in a watertight enclosure, except a motor, which must be either watertight or waterproof. A watertight enclosure must be designed in such a way that the total rated temperature of the equipment inside the enclosure is not exceeded.

(b) Central control consoles and similar control enclosures must be dripproof, regardless of location.

16. In § 111.12-11, a new paragraph (j) is added to read as follows:

§ 111.12-11 Generator protection.

(j) *Circuit breaker reclosing.*

Generator circuit breakers must not automatically close after tripping.

17. In Subpart 111.54, a new § 111.54-3 is added to read as follows:

§ 111.54-3 Remote control.

Remotely controlled circuit breakers must have local manual means of operation.

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

18. The authority citation for Part 113 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104; 49 CFR 1.46.

19. In 113.35-3, a new paragraph (f) is added to read as follows:

§ 113.35-3 General requirements.

* * * *

(f) Engine order telegraph and remote propulsion control systems must be electrically separate and independent, except that a single mechanical operator control device with separate transmitters and connections for each system may be used.

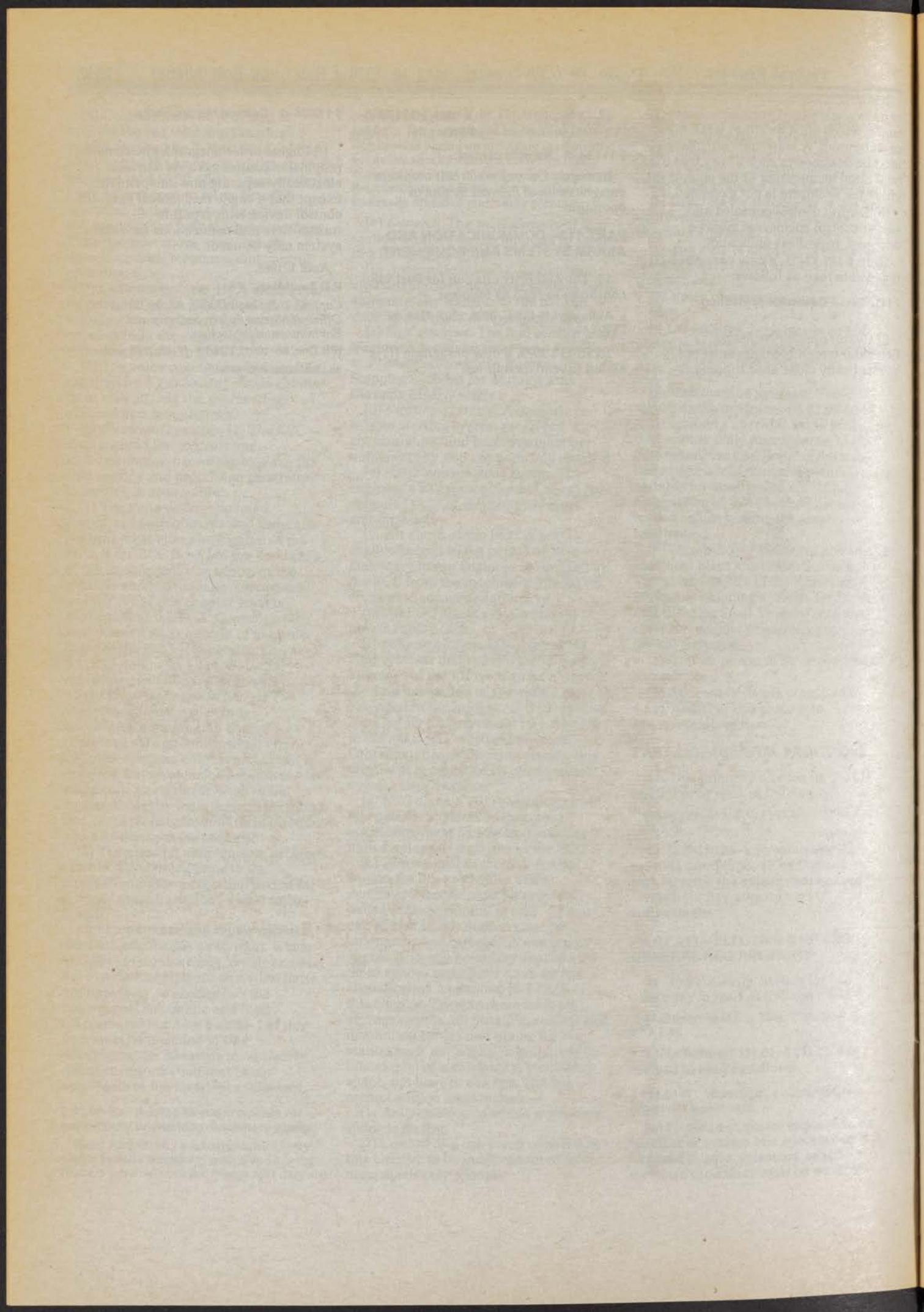
April 1, 1988.

P.C. Lauridsen,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-10622 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-14-M



Regulations
Food and Drug Administration
Department of Health and Human Services

Wednesday
May 18, 1988

Part III

Department of Health and Human Services

Food and Drug Administration

Sulfamethazine; Availability of National Center for Toxicological Research's Technical Report and Sulfamethazine in Food Producing Animals; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. 88N-0040]

Sulfamethazine; Availability of National Center for Toxicological Research's Technical Report**AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a technical report from its National Center for Toxicological Research (NCTR) entitled "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in Fischer 344 Rats." FDA is also announcing the availability of additional data associated with an NCTR technical report entitled "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in B6C3F₁ Mice," which FDA previously made available. FDA's Center for Veterinary Medicine (CVM) is reviewing the reports. On May 25 and 26, 1988, the Commissioner of Food and Drugs will hold a public hearing on sulfamethazine use.

ADDRESS: Written requests for copies of the technical report or the additional data to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Send two

self-addressed adhesive labels to assist the Branch in processing your request.) The technical report and the additional data are available for public examination in the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Max Crandall, Center for Veterinary Medicine (HFV-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3450.

SUPPLEMENTARY INFORMATION: FDA has received from NCTR and is making available a technical report of a 24-month chronic toxicity and carcinogenesis study conducted by NCTR in which rats were fed a diet containing sulfamethazine. Sulfamethazine is a new animal drug widely used in food-producing species.

Groups of male and female rats were fed a diet containing 0, 10, 40, 600, 1200, or 2400 parts per million (ppm) sulfamethazine. The feeding portion of the study was conducted from November 1982 to December 1984. The study results showed dose-related changes in mortality, i.e., the dosed animals had a lower mortality rate than the control group. There was a slight reduction in mean body weight in each dose group relative to the control group. In the animals scheduled for sacrifice at 24 months, NCTR reported the following incidences of thyroid follicular cell adenomas and adenocarcinomas.

Dose (ppm)	Female		Male	
	Incidence	Per- cent	Incidence	Per- cent
0	6/170	4	0/170	0
10	0/86	0	2/87	2
40	1/85	1	0/84	0
600	4/84	5	4/88	5
1200	8/87	9	4/83	5
2400	9/88	10	9/87	10

The increased incidence of adenomas and adenocarcinomas was statistically significant for trend ($P=0.005$ for females; $P=0.00005$ for males). The increased incidence of adenocarcinomas alone was statistically significant for trend ($P=0.003$ for females; $P=0.00006$ for males). NCTR did not report any other significant neoplastic lesions in rats.

NCTR calculated the concentration of sulfamethazine corresponding to a 1 in 1 million lifetime risk in rats, based on thyroid follicular cell adenocarcinomas alone, to be 0.027 ppm (27 parts per billion (ppb)) for females and .023 ppm (23 ppb) for males.

In conjunction with the chronic study in rats, NCTR measured the concentrations of T3 (total triiodothyronine), T4 (total thyroxine), and TSH (thyroid-stimulating hormone) in the rats at 12, 18, and 24 months. These data were published (Ref. 1) and are presented in Tables 1, 2, and 3 below.

TABLE 1.—SERUM TRIIODOTHYRONINE (T3) LEVELS (ng/100ml)¹ IN FISCHER 344 RATS DOSED WITH SULFAMETHAZINE

Sulfamethazine dose level (ppm)	Duration of exposure (mo)		
	12	19	24
Males			
0	168±30(15)	120±45(14)	100±45(62)
10	155±26(15)	112±71(14)	112±42(30)
40	164±38(15)	126±61(13)	103±39(32)
600	153±61(15)	104±30(15)	72±35(30)
1200	176±26(15)	127±33(12)	78±31(29)
2400	173±43(15)	112±39(13)	84±46(30)
Females			
0	188±51(15)	151±31(13)	104±32(50)
10	194±54(15)	149±57(15)	96±26(23)
40	204±41(15)	124±45(14)	99±32(19)
600	208±19(15)	141±36(15)	101±35(29)
1200	175±35(15)	136±49(14)	97±42(27)
2400	206±38(14)	114±56(14)	78±31(29)

¹ Mean ± standard deviation (number of animals).

TABLE 2.—SERUM THYOXINE (T4) LEVELS ($\mu\text{g}/100 \text{ ml}$)¹ IN FISCHER 344 RATS DOSED WITH SULFAMETHAZINE

Sulfamethazine dose level (ppm)	Duration of exposure (mo)		
	12	19	24
Males			
0.....	4.5±0.9(15)	4.0±0.7(14)	3.1±1.4(62)
10.....	5.7±0.7(15)	4.5±1.4(14)	3.0±1.7(31)
40.....	5.5±0.9(15)	4.7±1.1(13)	3.2±1.1(32)
600.....	5.1±1.9(15)	4.6±0.8(15)	2.3±0.9(30) ²
1200.....	5.0±0.7(15)	4.1±0.8(12)	2.2±0.8(29) ²
2400.....	6.1±1.2(15)	4.9±0.6(13)	2.4±1.4(30) ²
Females			
0.....	3.2±1.3(15)	3.1±0.5(13)	1.9±1.0(56)
10.....	4.4±1.1(15)	3.9±0.9(15)	1.7±0.9(29)
40.....	3.9±0.8(15)	3.5±0.8(14)	1.8±0.8(28)
600.....	4.5±0.7(15)	3.2±0.8(15)	1.5±1.0(29)
1200.....	3.6±0.7(15)	2.7±0.4(14) ²	1.4±1.1(30)
2400.....	4.2±1.0(14)	2.4±0.8(14) ²	2.1±1.0(30)

¹ Mean ± standard deviation (number of animals).² Significant at $p < 0.05$. Levels of significance were compared with values for 0 dose levels.TABLE 3.—SERUM TSH LEVELS (ng 1.00 μl)¹ IN FISCHER 344 RATS DOSED WITH SULFAMETHAZINE

Sulfamethazine dose level (ppm)	Duration of exposure (mo)		
	12	18	24
Males			
0.....	575±133(15)	217±81(14)	155±57(31)
10.....	461±135(15)	374±117(14)	155±98(20)
40.....	395±112(15)	347±275(13)	177±63(19)
600.....	670±188(15)	394±107(15)	165±55(20)
1200.....	631±225(15)	347±155(12)	166±60(20)
2400.....	703±206(15)	420±184(13)	182±76(20)
Females			
0.....	367±101(15)	257±121(13)	170±59(29)
10.....	372±93(15)	341±88(15)	170±47(21)
40.....	318±68(15)	285±109(14)	160±33(20)
600.....	515±96(15)	375±86(15)	202±96(20)
1200.....	464±193(15)	314±128(14)	180±52(20)
2400.....	435±207(14)	290±84(14)	174±42(20)

¹ Mean ± standard deviation (number of animals).

FDA is also making available additional data associated with an NCTR study in mice entitled "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in B6C3F₁ Mice," which FDA previously made available (March 23, 1988; 53 FR 9492). The new data consist of the organ weights of the test animals.

The data from NCTR's rat study, like those from its mouse study, are undergoing review by the National Toxicology Program as well as FDA. The agency's decisions on the presence or absence of tumors in the test rats, like its decisions on the presence or absence of tumors in the test mice (see 53 FR 9492; March 23, 1988), will not become final until these reviews are completed. FDA does not expect the reviews of either study to be completed until fall

1988. Nonetheless, the results in rats and mice reported by NCTR raise significant questions about the safety of residues of sulfamethazine in the edible products of food-producing animals. FDA advises that if the incidence of thyroid lesions in rats (or mice) is confirmed, and FDA concludes that sulfamethazine should be regulated as a carcinogen, FDA would determine the safe concentration of residue using the agency's risk assessment procedures codified at 21 CFR 500.84 and guidelines for evaluating the safety of compounds used in food-producing animals (52 FR 49589; December 31, 1987). Based on the data in NCTR's technical report on the rat study, the permitted concentration of total residue in a total diet of 1500 grams in humans would be about 25 ppb. For each species in which sulfamethazine is

approved, FDA would need to determine a target tissue and marker residue (21 CFR 500.86) from residue depletion data to ensure that the residue of carcinogenic concern would not exceed 25 ppb in the total diet of humans. Currently, FDA has sufficient residue depletion data only for swine.

The data from a total residue depletion and metabolism study in swine were previously published (Ref. 2). The concentrations of ¹⁴C-residues in tissues of swine dosed with ¹⁴C-sulfamethazine are shown in Table 4 below. The concentrations are parts per billion of sulfamethazine equivalents (mean ± standard error). All swine were dosed for 7 days and then sacrificed 8 hours or 2, 5, or 10 days after the last dose.

TABLE 4

Tissue	Time after last date (days)	Total residue (parts per billion)	Sulfamethazine (parts per billion)
Skeletal Muscle.....	0.3	3150±170	1107±21
	2	930±100	315±59
	5	60±23	20.2±8.1
	10	4±1	0.56±0.12
	10	4±1	0.56±0.12
Liver.....	0.3	6970±570	1747±478
	2	2410±410	513±121
	5	230±50	43.4±13.8
	10	62±7	4.60±1.44
	10	62±7	4.60±1.44
Kidney.....	0.3	9270±830	4275±496
	2	2810±320	1364±208
	5	180±58	80.3±30.2
	10	26±4	2.35±0.35
	10	26±4	2.35±0.35
Adipose	0.3	1200±70	288±27
	2	340±40	79±14
	5	20±9	3.8±2.1
	10	3±1	0.13±0.04
	10	3±1	0.13±0.04

If FDA concludes that these data are reliable, FDA's application of the procedures specified in 21 CFR 500.86 to those data will result in a tolerance of approximately 5 ppb for parent sulfamethazine (the marker residue) in kidney (the target tissue) of swine to ensure that each edible tissue has total residue below the safe concentration.

Interested parties may receive a copy of the NCTR technical report "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in Fischer 344 Rats" or the additional data (for organ weights) for the chronic mouse study by writing to the Dockets Management Branch (address above).

FDA has scheduled a public hearing before the Commissioner of Food and Drugs for May 25 and 26, 1988, to provide an opportunity for interested persons to present relevant scientific data and pertinent information on the safety of sulfamethazine and whether sulfamethazine can be used in food-producing animals without illegal drug residues in tissue resulting from such use (53 FR 15886). FDA requests that, at or after the hearing (see 53 FR 15886 at 15890), interested persons address the following questions in addition to those set out in the May 4, 1988, notice of hearing (53 FR 15886 at 15888):

(1) Assuming that they are reliable, whether the data on the effects of sulfamethazine on T₃, T₄, and TSH

levels (Ref. 1) are consistent or inconsistent with a hypothesis that the thyroid tumors in rats as reported by NCTR were caused by thyroid perturbation.

(2) What data are needed to show that the thyroid tumors in rodents following sulfamethazine feeding (as reported by NCTR) are the result of thyroid perturbation and not the result of a direct effect of sulfamethazine on the thyroid cells?

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Fullerton, F.R., R.J. Kushmaul, R.L. Suber, and N.A. Littlefield, "Influence of Oral Administration of Sulfamethazine on Thyroid Hormone Levels in Fischer 344 Rats," *Journal of Toxicological and Environmental Health*, 22:175-185, 1987.

2. Mitchell, A.D. and G.D. Paulson, "Depletion Kinetics of ¹⁴C-Sulfamethazine Metabolism in Swine," *Drug Metabolism and Disposition*, 14:161-165, 1986.

Dated: May 12, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-11076 Filed 5-13-88; 11:20 am]

BILLING CODE 4160-01-M

[Docket No. 88N-0040]

Sulfamethazine in Food-Producing Animals; Public Hearing Before the Commissioner; Time Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a change in the starting time for a public hearing before the Commissioner of Food and Drugs (the Commissioner) on the safety of the new animal drug sulfamethazine and on whether sulfamethazine can be used in food-producing animals without illegal drug residues in tissue (drug residues) resulting from such use. The hearing,

originally scheduled to begin at 8:30 a.m. on May 25, 1988, is being changed to begin at 10 a.m. On May 26, the hearing will begin at 8:30 a.m.

FOR FURTHER INFORMATION CONTACT:

Judith A. Gushee, Center for Veterinary Medicine (HFV-236), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2830.
or

David F. Tishler, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6244.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 4, 1988 (53 FR 15886), FDA announced a public hearing before the Commissioner on the safety of the new animal drug sulfamethazine and on whether sulfamethazine can be used in food-producing animals without illegal drug residues in tissue (drug residues) resulting from such use.

Residues of sulfamethazine in tissue are of particular concern at this time because FDA's National Center for Toxicological Research has recently completed a chronic toxicity and carcinogenesis feeding study of sulfamethazine in mice, the results of which indicate that sulfamethazine may be a carcinogen. FDA will use information presented at and after the public hearing, together with other data and information, to determine whether the use of sulfamethazine in food-producing animals presents an unacceptable risk to human health and, if so, an appropriate course of action to minimize that risk.

The hearing is scheduled to be held on May 25 and 26, 1988, at the Jack Masur Auditorium, Bldg. 10, Clinical Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. The hearing, originally scheduled to begin at 8:30 a.m. on May 25, is being changed to begin at 10 a.m. On May 26, the hearing will begin at 8:30 a.m.

Dated: May 11, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-11075 Filed 5-13-88; 11:20 am]

BILLING CODE 4160-01-M

THE FEDERAL REGISTER

Wednesday
May 18, 1988

Part IV

Department of Defense General Services Administration National Aeronautics and Space Administration

**48 CFR Part 5 etc.
Federal Acquisition Regulation;
Miscellaneous Amendments**

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

**48 CFR Parts 5, 7, 9, 10, 13, 14, 15, 17,
19, 31, 38, 39, 42, 47, 52, and 53**

[Federal Acquisition Circ. 84-37]

**Federal Acquisition Regulation;
Miscellaneous Amendments**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84-37 amends the Federal Acquisition Regulation (FAR) with respect to the following: Synopsis of Proposed Contract Actions; Subcontract Competition; Cost Comparison Threshold, FAR 7.302; Delivery Date for Purchase Orders; Proper Uniform Contract Format Locations for Provisions and Clauses Incorporated by Reference; Withdrawal of Bids; Use of Letter RFP for Noncompetitive Procurements; Price Proposals, Submission; Options; Small Business Set-Asides (Sec. 809(c), Pub. L. 100-180); Unallowable Costs Under FAR 31.205; Acquisition, Management, and Use of Information Resources; Visits to Contractors Facilities; Request for Revision to 52.210-1; FAR Transportation Clauses; and CICA Exception 1.

EFFECTIVE DATE: June 17, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:**A. Paperwork Reduction Act**

FAC 84-37, Items I thru XV. The Paperwork Reduction Act (Pub. L. 96-511) does not apply because these final rules do not impose any reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

B. Regulatory Flexibility Act

FAC 84-37, Items I, II, III, IV, V, VI, VII, VIII, XIII, and XIV. The Regulatory Flexibility Act (Pub. L. 96-354) does not apply because each revision is not a "significant revision" as defined in FAR 1.501-1; i.e., it does not alter the

substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations (as implemented in FAR Subpart 1.5, Agency and Public Participation), solicitation of agency and public views on the revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act does not apply.

FAC 84-37, Item IX. The revisions to FAR 15.804-6 and SF 1411 will neither expand existing Government rights of access to information nor will these revisions eliminate existing protections for proprietary commercial pricing data. The revisions, in limiting the right of examination to information necessary to adequately evaluate the proposed price, clarify existing policy and do not constitute significant revisions. The DoD, GSA, and NASA certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 602, et seq.).

FAC 84-37, Item X. As noted in the *Federal Register* notice of October 28, 1986, the Councils had determined that the proposed rule would not have a significant effect beyond the internal operating procedures of procuring agencies or a significant cost or administrative impact on contractors or offerors. Consequently, section 22 of the Office of Federal Procurement Policy Act did not require publicizing the proposed rule for public comment. Because publicizing was not required, the Regulatory Flexibility Act did not apply to the proposal. Nevertheless, the Councils solicited public comments to facilitate maximum participation in fashioning sound procurement regulations. None of the comments received questioned the underlying assumption concerning impact and effect. Moreover, none of the revisions incorporated in the final rule appears to alter the rule's impact or effect on contractors or offerors. Accordingly, the Councils have not prepared a final regulatory flexibility analysis for the final rule.

FAC 84-37, Item XI. This final rule change to FAR 19.501(k) will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because it implements a statutory requirement which does not place limitations upon

subcontracting (section 921(c)) of the Small Business Act.

FAC 84-37, Item XII. The change to FAR 31.204 will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because the new rule is merely guidance for application of the cost principles and has no economic impact on large or small business.

FAC 84-37, Item XV. This final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because use of city boundaries, rather than just commercial zones designated by the Interstate Commerce Commission, is both more equitable for bidders and more in accord with commercial practice. No comments were received from small entities in response to the proposed rule.

C. Public Comments

FAC 84-37, Item II. A proposed rule was published in the *Federal Register* on October 28, 1986 (51 FR 39456). The comments that were received as a result of the proposed rule were considered by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council in the development of this final rule.

FAC 84-37, Item VIII. A proposed rule was published in the *Federal Register* on October 15, 1986 (51 FR 36777). The comments that were received as a result of the proposed rule were considered by the Councils in the development of this final rule.

FAC 84-37, Item IX. A proposed rule was published in the *Federal Register* on June 26, 1986 (51 FR 23396). The comments that were received as a result of the proposed rule were considered by the Councils in the development of this final rule.

FAC 84-37, Item X. A proposed rule was published in the *Federal Register* on October 28, 1986 (51 FR 39456). As a result of the comments received, as well as the passage of Pub. L. 99-661, the Councils have further revised FAR Subpart 17.2 and Part 52 and are issuing the complete revisions as a final rule.

FAC 84-37, Item XII. A proposed rule was published in the *Federal Register* on April 30, 1987 (52 FR 15884). The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council considered the public comments received and concluded that there is a need to develop language in FAR 31.204, Applications of principles and procedures, to provide guidelines for determining the status of costs to which

more than one cost principle is relevant and to minimize the number of interpretations of the prevailing rules. This final rule language clarifies the proposed rule coverage and describes the process for determining the relevant cost principles to apply.

This final rule language stresses two points. In instances where a cost can be subdivided, it must be apportioned among the selected cost principles in 31.205. In instances where such an apportionment cannot be accomplished, the cost principle which most specifically deals with or best captures the essential nature of the cost at issue governs. This final rule language emphasizes the need to associate costs, or elements of a cost, with the appropriate cost principles.

List of Subjects in 48 CFR Parts 5, 7, 9, 10, 13, 14, 15, 17, 19, 31, 38, 39, 42, 47, 52, and 53

Government procurement.

Dated: May 12, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAR 84-37 is effective June 17, 1988.

Eleanor Spector,

Deputy Assistant Secretary of Defense for Procurement.

John Alderson,

Acting Administrator.

May 10, 1988.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 84-37 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I—Synopsis of Proposed Contract Actions

FAR 5.207 is revised to add certain format requirements for synopses to eliminate retyping of synopses at the CBD. Strict adherence to these format requirements will allow expedited publication of notices which may result in future reduction of the presumptive time provided in FAR 5.203(f). The change also deletes existing coverage providing routing indicator codes for certain electronically transmitted synopses. Agencies are advised that the deleted codes have not changed but have been deleted only for simplification purposes. Agencies transmitting via AUTODIN are advised that the system accommodates ASCII.

Item II—Subcontract Competition

FAR 7.105(b)(2)(iv) is added to require that when subcontract competition is both feasible and desirable, contracting officers address in acquisition plans how subcontract competition will be sought, promoted, and sustained throughout an acquisition.

Item III—Cost Comparison Threshold

FAR 7.302(d) is revised as a result of a revision to OMB Circular A-76. The dollar threshold of \$100,000 for conducting a cost comparison has been replaced with a fulltime equivalent (FTE) threshold of 10 FTE's (see Part I, Chapter 2, paragraph A1 of the Supplement to OMB Circular A-76).

Item IV—Delivery Date for Purchase Orders

FAR 13.501(f) provides for a determinable delivery date vice a definite calendar date as presently provided in the regulation.

Item V—Request for Revision to 52.210-1

The provision at 52.210-1, Availability of Specifications, Standards and Commercial Item Descriptions, is amended to revise the title and to eliminate the need to frequently update the General Services Administration Business Service Centers' (BSC) addresses and telephone numbers. Accordingly, FAR 9.203, 10.001, 10.003, 10.005, 10.006, 10.008, 10.011, 38.102-3, 52.210-3, and 52.210-4 are editorially revised to reflect the new title of the Index to read "GSA Index of Federal Specifications, Standards and Commercial Item Descriptions."

Item VI—Proper Uniform Contract Format for Provisions and Clauses Incorporated by Reference

Various sections of the FAR are revised to eliminate conflicting instructions regarding the proper Uniform Contract Format location for provisions and clauses incorporated by reference.

Item VII—Withdrawal of Bids

FAR 14.406-3 is revised to clarify the existing coverage concerning the delegation of authority to make determinations allowing withdrawal of bids. The revision will allow individual agencies to determine the appropriate level for the decision authority.

Item VIII—Use of Letter RFP for Noncompetitive Procurements

FAR 15.402 and 15.406 are revised to permit the use of letter requests for proposals for acquisitions conducted

under 6.302, Circumstances permitting other than full and open competition.

Item IX—Price Proposals and SF 1411

FAR 15.804-6 is revised concerning submission of price proposals. FAR 53.301-1411, Contract Pricing Proposal Cover Sheet, and Standard Form (SF) 1411 are also revised.

Item X—Options

FAR Subpart 17.2 and Part 52 are revised to clarify when agencies should evaluate offers for option quantities in awarding the basic contract and when exercise of an option will satisfy the requirements of full and open competition.

Item XI—Small Business Set-Asides (Sec. 809(c), Pub. L. 100-180)

Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) required contracting officers under certain conditions to release the names and addresses of those offerors expected to respond to a small business set-aside. Accordingly, FAR 19.501(k) was added in the interim rule published in the *Federal Register* on October 14, 1987 (52 FR 38188) as FAC 84-31 to implement this requirement. The Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. 100-180, repealed section 15(p) of the Small Business Act, therefore, FAR 19.501(k) is deleted.

Item XII—Unallowable Costs Under FAR 31.205

FAR 31.204 is revised to provide guidelines for determining the allowability of costs to which more than one cost principle is relevant. The revised language describes the process for apportioning costs among the relevant cost principles.

The revised language stresses two points. In instances where a cost can be subdivided, it must be apportioned among the selected cost principles in 31.205. In instances where such an apportionment cannot be accomplished, the cost principle which most specifically deals with or best captures the essential nature of the cost at issue governs. The revised language emphasizes the need to associate costs, or elements of a cost, with the appropriate cost principles.

Item XIII—Acquisition, Management, and Use of Information Resources

FAR Part 39 has been revised to clarify the relationship between the FAR and the FIRMR.

Item XIV—Visits to Contractors' Facilities

FAR 42.402(b) is revised to state that the CAO will (1) consult (instead of coordinate) with the contractor, and (2) consult with the cognizant audit office to determine whether information requested by a prospective visitor adequate to fulfill the requirement has recently been reviewed by or is available within the Government. If the information exists, the CAO will discourage the visit and refer the prospective visitor to the Government office where such information is located.

Item XV—FAR Transportation Clauses

FAR 47.303-1, 47.303-3, 47.303-4, 47.303-5, and the clauses at 52.247-29, 52.247-31, 52.247-32, and 52.247-33 are revised to permit the Government to designate a delivery point, for f.o.b. origin shipments, that is within the same city or commercial zone as the f.o.b. origin point specified in the contract. Therefore, 48 CFR Parts 5, 7, 9, 10, 13, 14, 15, 17, 19, 31, 38, 39, 42, 47, 52, and 53 are amended as set forth below.

FAC 84-28 was published in the Federal Register on June 9, 1987 (52 FR 21884), as an interim rule. Item II of FAC 84-28, Competition in Contracting Act (CICA) Exception 1, is hereby adopted as a final rule without change.

1. The authority citation for 48 CFR Parts 5, 7, 9, 10, 13, 14, 15, 17, 19, 31, 38, 39, 42, 47, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 5—PUBLICIZING CONTRACT ACTIONS

2. Section 5.207 is amended by revising paragraph (a), the introductory text of paragraph (b), paragraphs (b)(1) through (b)(3), and the introductory text of (b), (b)(4), with no revisions to the 17 FORMAT ITEMS; by redesignating and revising paragraph (b)(5) as (b)(6) and adding a new paragraph (b)(5); and by revising paragraph (c)(2), by removing paragraphs (c)(2)(i) and (c)(2)(ii), and redesignating existing paragraphs (c)(2)(iii) through (c)(2)(xvi) as paragraphs (c)(2)(i) through (c)(2)(xiv) to read as follows:

5.207 Preparation and transmittal of synopses.

(a) *Transmittal.* Contracting officers shall transmit synopses of actions identified under § 5.101 to the Commerce Business Daily by the most expeditious and reliable means available.

(1) *Electronic transmission.* All synopses transmitted by electronic

means shall be in ASCII Code. Contact your agency's communications center for the appropriate transmission instructions or services.

(2) *Hard copy transmission.* When electronic transmission is not feasible, synopses should be sent to the CBD via mail or other physical delivery of hard copy and should be addressed to: U.S. Department of Commerce, Commerce Business Daily, P.O. Box 5999, Chicago, IL 60680.

(b) *Format.* The contracting officer shall prepare the synopsis in the following style and format to ensure timely processing of the synopsis by the Commerce Business Daily.

(1) *General.* Format for all synopses shall employ conventional typing with abbreviations, capitalization, and punctuation all grammatically correct. Each synopsis shall include all 17 format items. Do not include the title for the format item.

(2) *Spacing.* Begin each line flush left and use double spaced lines between each format line. If more than one synopsis is sent at one time, separate each synopsis with four line spaces and begin each new synopsis with format item number 1.

(3) *Abbreviations.* Minimize abbreviations or acronyms to commonly recognized abbreviations.

(4) *Standard format.* Prepare each synopsis in the following manner. Begin each format item with the number of the item followed by a period (e.g., 1.). Then make two spaces after the period. Next type the appropriate information for each format item. Then conclude each format item with two exclamation points (i.e., !!). Conclude each complete synopsis, following format item 17, with five asterisks (i.e., * * * * *).

(5) *Nonapplicable format items.* When a format item is not applicable, type the item number, a period, two blank spaces, and "N/A" (e.g., 10. N/A!!).

6. The following is an illustrative solicitation synopsis format:

1. P!!
2. 0925!!
3. 85!!
4. 57936!!
5. 19111-5096!!
6. 95!!
7. Defense Industrial Supply Center, 700 Robbins Ave., Philadelphia, PA 19111-5096!!
8. 95—metal plate steel!!
9. DLA500-86-B-0090!!
10. BOD, 111585!!
11. Contact, Mary Drake, 215/697-XXXX/ Contracting Officer, Larry Bird, 215/697-XXXX!!
12. N/A!!
13. N/A!!
14. N/A!!
15. N/A!!

16. N/A!!

17. NSN9515-00-237-5342,—Spec MIL-S-22698A,—0.1875 in thk, .96 in w, 240 in lg.—Carbon steel,—45,000 lbs.—Del to NSY Philadelphia, PA, NSC Norfolk, VA.—Del by 1 Oct 86.—When calling, be prepared to state name, address and solicitation number.—See notes 4, 55.—All responsible sources may submit an offer which will be considered.* * * *

(c) * * *

(2) Include the following elements to the extent applicable, in sequence, with each element separated by two hyphens. Do not include the Roman numeral designator preceding each element, and do not include the supply/service classification code.

PART 7—ACQUISITION PLANNING

3. Section 7.105 is amended by adding paragraph (b)(2)(iv) to read as follows:

7.105 Contents of written acquisition plans.

- (b) * * *
- (2) * * *

(iv) When effective subcontract competition is both feasible and desirable, describe how such subcontract competition will be sought, promoted, and sustained throughout the course of the acquisition. Identify any known barriers to increasing subcontract competition and address how to overcome them.

4. Section 7.302 is amended by revising paragraph (d) to read as follows:

7.302 General.

(d) Provide that, ordinarily, agencies should not incur the delay and expense of conducting cost comparison studies to justify a Government commercial or industrial activity involving 10 or fewer full-time equivalents as defined in OMB Circular No. A-76. Activities below this threshold should be performed by contract unless in-house performance is justified. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison study may be conducted.

PART 9—CONTRACTOR QUALIFICATIONS

5. Section 9.203 is amended by revising paragraph (b)(1) to read as follows:

9.203 QPL's, QML's, and QBL's.

(b) * * *

(1) GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

PART 10—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

6. Section 10.001 is amended by revising the definitions "Federal specification or standard" and "General Services Administration Index of Federal Specifications and Standards" to read as follows:

10.001 Solicitation provisions and contract clauses.

"Federal specification or standard" means a specification or standard issued or controlled by the General Services Administration (GSA) and listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

"General Services Administration Index of Federal Specifications, Standards and Commercial Item Descriptions" means the GSA publication that lists Federal specifications and standards, including supplements, that have been implemented for use by all Federal agencies.

7. Section 10.003 is amended by revising paragraph (a) to read as follows:

10.003 Responsibilities.

(a) The Administrator of GSA, under separate authority and regulations, prepares, maintains, and controls specifications and standards covering products commonly used by Government agencies, and lists those descriptions in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

8. Section 10.005 is amended by revising the first sentence of paragraph (c) to read as follows:

10.005 Management of purchase descriptions.

(c) Recommendations for changes in specifications and standards listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions should be submitted to the General Services Administration, Federal Supply Service, Item Management Division, Washington, DC 20406. * * *

10.006 [Amended]

9. Section 10.006 is amended by removing in paragraph (a)(1) the words "Index of Federal Specifications and Standards" and inserting in their place the words "GSA Index of Federal Specifications, Standards and Commercial Item Descriptions".

10.008 [Amended]

10. Section 10.008 is amended in paragraphs (a), (d), and (g) by removing in each paragraph the words "Index of Federal Specifications and Standards" and inserting in each place the words "GSA Index of Federal Specifications, Standards and Commercial Item Descriptions".

10.011 [Amended]

11. Section 10.011 is amended in paragraphs (a), (c), and (d) by removing in each paragraph the words "Index of Federal Specifications and Standards" and inserting in each place the words "GSA Index of Federal Specifications, Standards, and Commercial Item Descriptions".

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

12. Section 13.501 is amended by revising paragraph (f) to read as follows:

13.501 General.

(f) Each purchase order shall contain a determinable date by which delivery of supplies or performance of services is required.

PART 14—SEALED BIDDING

14.201-3 [Amended]

13. Section 14.201-3 is amended by removing the second sentence.

14.201-5 [Amended]

14. Section 14.201-5 is amended by removing the second sentence in paragraph (b).

15. Section 14.406-3 is amended by revising paragraph (c) to read as follows:

14.406-3 Other mistakes disclosed before award.

(c) If, under paragraph (a) or (b) of this subsection,

(1) The evidence of a mistake is clear and convincing only as to the mistake but not as to the intended bid, or

(2) The evidence reasonably supports the existence of a mistake but is not clear and convincing,

an official above the contracting officer, unless otherwise provided by agency procedures, may make a determination permitting the bidder to withdraw the bid.

PART 15—CONTRACTING BY NEGOTIATION

16. Section 15.402 is amended by redesignating the existing paragraph (g) as (h) and by adding a new paragraph (g) to read as follows:

15.402 General.

(g) Unless prohibited by agency regulations, letter RFP's may be used for acquisitions conducted under 6.302, Circumstances permitting other than full and open competition. When this technique is used, contracting officers must still comply with other portions of this regulation, such as Subparts 5.2, Synopses of Proposed Contract Actions, and 15.8, Price Negotiation. Letter RFP's should be as clear and concise as possible; exclude any unnecessary verbiage or notices; and, as a minimum, contain the following:

- (1) RFP number and date.
- (2) Name and address of contracting office.
- (3) Type of contract contemplated.
- (4) Quantity, description, and required delivery for the item.
- (5) Applicable certifications and representations.
- (6) Contract terms and conditions (reference to prior contract or updates should be provided, as applicable).
- (7) Offer due date.
- (8) Other relevant information; e.g., incentives, variations in delivery schedule, any peculiar or different requirements, cost proposal support, and different data requirements.

17. Section 15.406-1 is amended by redesignating paragraph (a)(6) as (a)(7) and by adding a new paragraph (a)(6) to read as follows:

15.406-1 Uniform contract format.

- (a) * * *
- (6) Letter Request for Proposals (see 15.402).

18. Section 15.406-2 is amended by revising paragraph (a)(1) to read as follows:

15.406-2 Part I—The Schedule.

- (a) * * *
- (1) Prepare RFP's on Standard Form 33, Solicitation, Offer and Award (53.301-33), unless otherwise permitted by this regulation. The first page of the

SF 33 is the first page of the solicitation and includes section A of the uniform contract format.

15.406-3 [Amended]

19. Section 15.406-3 is amended by removing the third sentence in paragraph (c).

15.406-5 [Amended]

20. Section 15.406-5 is amended by removing the third sentence in paragraph (b).

21. Section 15.804-6 is amended by revising paragraph (5) in Table 15-2 in paragraph (b)(2) to read as follows:

15.804-6 Procedural requirements.

Table 15-2 Instructions for Submission of a Contract Pricing Proposal

5. By submitting offeror's proposal, the offeror, if selected for negotiation, grants the contracting officer or an authorized representative the right to examine, at any time before award, those books, records, documents, and other types of factual information, regardless of form or whether such supporting information is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of the proposed price.

PART 17—SPECIAL CONTRACTING METHODS

22. Section 17.200 is revised to read as follows:

17.200 Scope of subpart.

This subpart prescribes policies and procedures for the use of option solicitation provisions and contract clauses. Except as provided in agency regulations, this subpart does not apply to contracts for:

(a) Services involving the construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property;

(b) Architect-engineer services;

(c) Research and development services;

(d) Automatic data processing (ADP) equipment systems; and

(e) Telecommunications equipment and services.

However, it does not preclude the use of options in those contracts.

23. Section 17.202 is amended by adding a paragraph (a) a parenthetical second sentence to read as follows:

17.202 Use of options.

(a) * * * [See 17.207(f) with regard to the exercise of options.]

24. Section 17.206 is revised to read as follows:

17.206 Evaluation.

(a) In awarding the basic contract, the contracting officer shall, except as provided in paragraph (b) of this section, evaluate offers for any option quantities or periods contained in a solicitation when it has been determined prior to soliciting offers that the Government is likely to exercise the options. (See 17.208.)

(b) The contracting officer need not evaluate offers for any option quantities when it is determined that evaluation would not be in the best interests of the Government and this determination is approved at a level above the contracting officer. An example of a circumstance that may support a determination not to evaluate offers for option quantities is when there is a reasonable certainty that funds will be unavailable to permit exercise of the option.

25. Section 17.207 is amended by revising paragraph (f) to read as follows:

17.207 Exercise of options.

(f) Before exercising an option, the contracting officer shall make a written determination for the contract file that exercise is in accordance with the terms of the option, the requirements of this section, and Part 6. To satisfy requirements of Part 6 regarding full and open competition, the option must have been evaluated as part of the initial competition and be exercisable at an amount specified in or reasonably determinable from the terms of the basic contract, e.g.—

(1) A specific dollar amount;

(2) An amount to be determined by applying provisions (or a formula) provided in the basic contract, but not including renegotiation of the price for work in a fixed-price type contract;

(3) In the case of a cost-type contract, if—

(i) The option contains a fixed or maximum fee; or

(ii) The fixed or maximum fee amount is determinable by applying a formula contained in the basic contract (but see 16.102(c));

(4) A specific price that is subject to an economic price adjustment provision; or

(5) A specific price that is subject to change as the result of changes to prevailing labor rates provided by the Secretary of Labor.

26. Section 17.208 is amended by revising paragraphs (b) and (c) to read as follows:

17.208 Solicitation provisions and contract clauses.

(b) The contracting officer shall insert a provision substantially the same as the provision at 52.217-4, Evaluation of Options Exercised at Time of Contract Award, in solicitations when the solicitation includes an option clause, a determination has been made that there is a reasonable likelihood that the option will be exercised, and the option may be exercised at the time of contract award.

(c) The contracting officer shall insert a provision substantially the same as the provision at 52.217-5, Evaluation of Options, in solicitations when—

(1) The solicitation contains an option clause;

(2) An option is not to be exercised at the time of contract award;

(3) A firm-fixed-price contract, a fixed-price contract with economic price adjustment, or other type of contract approved under agency procedures is contemplated; and

(4) A determination has been made that there is a reasonable likelihood that the option will be exercised.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERN

19.501 [Amended]

27. Section 19.501 is amended by removing paragraph (k).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

28. Section 31.204 is amended by revising paragraph (c) to read as follows:

31.204 Application of principles and procedures.

(c) Section 31.205 does not cover every element of cost. Failure to include any item of cost does not imply that it is either allowable or unallowable. The determination of allowability shall be based on the principles and standards in this subpart and the treatment of similar or related selected items. When more than one subsection in 31.205 is relevant to a contractor cost, the cost shall be apportioned among the applicable subsections, and the determination of allowability of each portion shall be based on the guidance contained in the applicable subsection. When a cost, to which more than one subsection in 31.205 is relevant, cannot be apportioned, the determination of allowability shall be based on the guidance contained in the subsection

that most specifically deals with, or best captures the essential nature of, the cost at issue.

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTS

29. Section 38.102-3 is amended by revising in paragraph (a) the third and fourth sentences to read as follows:

38.102-3 New Item Introductory Schedule.

(a) * * * These centers are listed in the provision at 52.210-1, Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions. The BSC screens the applications and forwards them to the GSA, Federal Supply Service (FSS), for review and acceptance or rejection. * * *

30. Part 39 is revised to read as follows:

PART 39—ACQUISITION OF INFORMATION RESOURCES

39.001 Policy.

39.002 Delegations of procurement authority.

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

Note.—Until more comprehensive coverage is included in the FAR, this part serves as a means of referring acquisition personnel to the Federal Information Resources Management Regulation (FIRMR) for those special policies and procedures applicable to acquisition of certain automatic data processing (ADP), telecommunications, and related resources.

39.001 Policy.

In acquiring information resources, acquisition personnel shall follow the policies and procedures contained in the FAR except in those areas where the FIRMR (41 CFR Ch. 201) prescribes special policies, procedures, provisions, or clauses.

39.002 Delegations of procurement authority.

The Administrator of General Services has certain exclusive authorities regarding acquisition of information resources which may be delegated to agencies. The FIRMR contains blanket delegations and rules for requesting specific delegations. In addition, the FIRMR contains rules regarding other delegations that may be granted to meet specific information resources needs. Provisions for requesting these delegations are provided in the FIRMR (see particularly FIRMR Part 201-23).

PART 42—CONTRACT ADMINISTRATION

31. Section 42.402 is amended by revising paragraph (b) to read as follows:

42.402 Visits to contractors' facilities.

(b) If the visit will result in reviewing, auditing, or obtaining any information from the contractor relating to contract administration functions, the prospective visitor shall identify the information in sufficient detail so as to permit the CAO, after consultation with the contractor and the cognizant audit office, to determine whether such information, adequate to fulfill the requirement, has recently been reviewed by or is available within the Government. If so, the CAO will discourage the visit and refer the prospective visitor to the Government office where such information is located. Where the office is the CAO, such information will be immediately forwarded or otherwise made available to the requestor.

PART 47—TRANSPORTATION

32. Section 47.303-1 is amended by revising paragraph (a)(4) to read as follows:

47.303-1 F.o.b. origin.

(a) * * *

(4) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR Part 1048).

33. Section 47.303-3 is amended by revising paragraph (a)(1)(iv) to read as follows:

47.303-3 F.o.b. origin, freight allowed.

(a) * * *

(1) * * *

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR Part 1048); and

34. Section 47.303-4 is amended by revising paragraph (a)(1)(iv) to read as follows:

47.303-4 F.o.b. origin, freight prepaid.

(a) * * *

(1) * * *

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR Part 1048); and

* * * * *

35. Section 47.303-5 is amended by revising paragraph (a)(1)(iv) to read as follows:

47.303-5 F.o.b. origin, with differentials.

(a) * * *

(1) * * *

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR Part 1048); and

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

36. Section 52.102-1 is amended by adding paragraph (d) to read as follows:

52.102-1 Incorporation by reference.

* * * * *

(d) In order to incorporate provisions and clauses by reference into the Uniform Contract Format (UCF) sections designated in the matrices in Subpart 52.3, the contracting officer shall include in such sections the following statement, appropriately completed to list the number, title, date, and source (e.g., FAR) of each of the pertinent provisions and clauses:

Notice.—The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

37. Section 52.107 is amended by revising paragraphs (a) and (b) to read as follows:

52.107 Provisions and clauses prescribed in Subpart 52.1.

(a) (1) The contracting officer shall insert the provision at 52.252-1, *Solicitation Provisions Incorporated by Reference*, in solicitations in order to incorporate provisions by reference, if the solicitation uses the Uniform Contract Format (UCF).

(2) If the solicitation incorporates provisions by reference and does not use the UCF, the contracting officer shall use the provision with its Alternate I, and shall list each of these provisions by number, title, and date.

(b) (1) The contracting officer shall insert the clause at 52.252-2, *Clauses Incorporated by Reference*, in solicitations and contracts in order to

incorporate clauses by reference if the solicitation or contract uses the Uniform Contract Format (UCF).

(2) If the solicitation or contract incorporates clauses by reference and does not use the UCF, the contracting officer shall use the clause with its Alternate I, and shall list each of these clauses by number, title, and date.

* * * * *

38. Section 52.210-1 is revised to read as follows:

52.210-1 Availability of Specifications Listed in the Index of Federal Specifications, Standards and Commercial Item Descriptions.

As prescribed in 10.011(a), insert the following provision:

Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions (Jun 1988)

(a) A single copy of each specification cited in this solicitation is available without charge from the GSA Specifications Unit, 7th & D Sts., SW, Washington, DC 20407 [Tel. 202-472-2205 or 472-2140], or from any of the General Services Administration Business Service Centers which are located in Boston, MA; New York, NY; Philadelphia, PA; Atlanta GA; Chicago, IL; Kansas City, MO; Ft. Worth, TX; San Francisco, CA; Los Angeles, CA; and Auburn, WA. Additional copies may be purchased from the GSA Specifications Unit in Washington, DC.

(b) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(End of provision)

39. Section 52.210-3 is amended by revising the section title, the introductory test of the provision, the provision title and date, and by removing the derivation line following "End of provision" to read as follows:

52.210-3 Availability of specifications not listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

As prescribed in 10.011(c), insert a provision substantially the same as the following:

Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions (Jun 1988)

* * * * *

40. Section 52.210-4 is amended by revising section title, the introductory text of the provision, the provision title and date, and by removing the derivation line following "End of provision" to read as follows:

52.210-4 Availability for examination of specifications not listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

As prescribed in 10.011(d), insert a provision substantially the same as the following:

Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions (Jun 1988)

* * * * *

41. Section 52.217-4 is revised to read as follows:

52.217-4 Evaluation of option exercised at time of contract award.

As prescribed in 17.208(b), insert a provision substantially the same as the following:

Evaluation of Options Exercised at Time of Contract Award (Jun 1988)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate the total price for the basic requirement together with any option(s) exercised at the time of award.
(End of provision)

42. Section 52.217-5 is revised to read as follows:

52.217-5 Evaluation of options.

As prescribed in 17.208(c)(1), insert a provision substantially the same as the following:

Evaluation of Options (Jun 1988)

(a) Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(b) The Government may reject an offer as nonresponsive if it is materially unbalanced as to prices for the basic requirement and the option quantities. An offer is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.
(End of provision)

43. Section 52.247-29 is amended in the introductory text by inserting a colon following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(JUN 1988)"; by revising paragraph (a)(4); by removing paragraph (c)(1); by redesignating paragraph (c)(2) as new paragraph (c)(1); by redesignating and revising paragraph (c)(3) as paragraph (c)(2); and by removing both derivation lines following "(End of clause)" to read as follows:

52.247-29 F.o.b. origin.

* * * * *

(a) * * *

(4) If stated in the solicitation, to any Government designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048).

* * * * *

(c) * * *

(2) Notwithstanding subparagraph (c)(1) of this clause, if the Contractor's shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor's expense, to the container yard in the same or nearest city where seavan container service is available.

* * * * *

44. Section 52.247-31 is amended in the introductory text by inserting a colon following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(JUN 1988)"; by revising paragraph (a)(1)(iv); by removing paragraph (c)(1); by redesignating paragraph (c)(2) as new paragraph (c)(1); by redesignating and revising paragraph (c)(3) as paragraph (c)(2); and by removing both derivation lines following "(End of clause)" to read as follows:

52.247-31 F.o.b. origin, freight allowed.

* * * * *

(a) * * *

(1) * * *

(iv) If stated in the solicitation, to any Government designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048); and

* * * * *

(c) * * *

(2) Notwithstanding subparagraph (c)(1) of this clause, if the Contractor's shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at Contractor's expense, to the container yard in the same or nearest city where seavan container service is available.

* * * * *

45. Section 52.247-32 is amended in the introductory text by inserting a colon following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(JUN 1988)"; by revising paragraph (a)(1)(iv); by removing paragraph (c)(1); by redesignating (c)(2) as new (c)(1); by redesignating and revising (c)(3) as (c)(2); and by removing

both derivation lines following "(End of clause)" to read as follows:

52.247-32 F.o.b. origin, freight prepaid.

* * *
(1) * * *

(iv) If stated in the solicitation, to any Government designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048); and

* * *
(c) * * *

(2) Notwithstanding subparagraph (c)(1) of this clause, if the Contractor's shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor's expense to the container yard in the same of nearest city where seavan container service is available.

* * * * *

46. Section 52.247-33 is amended in the introductory text by inserting a colon following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(JUN 1988)"; by revising paragraph (a)(1)(iv); and by removing all derivation lines following "(End of clause)" to read as follows:

52.247-33 F.o.b. origin, with differentials.

* * * *
(1) * * *

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commission at 49 CFR 1048); and

* * * * *
47. Section 52.252-1 is revised to read as follows:

52.252-1 Solicitation provisions incorporated by reference.

As prescribed in 52.107(a), insert the following provision:

Solicitation Provisions Incorporated by Reference (Jun 1988)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

(End of provision)

Alternate I (JUN 1988). If the solicitation incorporates provisions by reference and does not use the Uniform Contract Format—

(a) Substitute the words "the following" for the words "one or more" in the first sentence of the basic clause; and

(b) Add the following, listing by number, title, and date each provision that is incorporated by reference:

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) SOLICITATION PROVISIONS

II. [insert regulation name] (48 CFR CHAPTER—) SOLICITATION PROVISIONS

48. Section 52.252-2 is revised to read as follows:

52.252-2 Clauses incorporated by reference.

As prescribed in 52.107(b), insert the following clause:

Clauses Incorporated by Reference (Jun 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

(End of clause)

Alternate I (JUN 1988). If the solicitation or contract incorporates clauses by reference and does not use the Uniform Contract Format—

(a) Substitute the words "the following" for the words "one or more" in the first sentence of the basic clause; and

(b) Add the following, listing by number, title, and date each provision that is incorporated by reference:

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

II. [insert regulation name] (48 CFR CHAPTER—) CLAUSES

PART 53—FORMS

53.215-2 [Amended]

49. Section 53.215-2 is amended by removing in paragraph (a) the date "(10/83)" and inserting in its place the date "(7/87)".

50. Section 53.301-1411 (SF 1411) is revised to read as follows:

BILLING CODE 6820-62-M

53.301-1411 Contract pricing proposal cover sheet.

CONTRACT PRICING PROPOSAL COVER SHEET		1. SOLICITATION/CONTRACT/MODIFICATION NO.	FORM APPROVED OMB NO. 9000-0013
NOTE: This form is used in contract actions if submission of cost or pricing data is required. (See FAR 15.804-6(b))			
2. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)		3A. NAME AND TITLE OF OFFEROR'S POINT OF CONTACT	3B. TELEPHONE NO.
4. TYPE OF CONTRACT ACTION (Check)			
A. NEW CONTRACT		D. LETTER CONTRACT	
B. CHANGE ORDER		E. UNPRICED ORDER	
C. PRICE REVISION/REDETERMINATION		F. OTHER (Specify)	
5. TYPE OF CONTRACT (Check)		6. PROPOSED COST (A+B+C)	
<input type="checkbox"/> FFP	<input type="checkbox"/> CPFF	<input type="checkbox"/> CPIF	<input type="checkbox"/> CPAF
<input type="checkbox"/> FPI	<input type="checkbox"/> OTHER (Specify)	A. COST \$	B. PROFIT/FEE \$
C. TOTAL \$			
7. PLACE(S) AND PERIOD(S) OF PERFORMANCE			
8. List and reference the identification, quantity and total price proposed for each contract line item. A line item cost breakdown supporting this recap is required unless otherwise specified by the Contracting Officer. (Continue on reverse, and then on plain paper, if necessary. Use same headings.)			
A. LINE ITEM NO.	B. IDENTIFICATION	C. QUANTITY	D. TOTAL PRICE
			E. REF.
9. PROVIDE NAME, ADDRESS, AND TELEPHONE NUMBER FOR THE FOLLOWING (If available)			
A. CONTRACT ADMINISTRATION OFFICE		B. AUDIT OFFICE	
10. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS WORK? (If "Yes," identify)		11A. DO YOU REQUIRE GOVERNMENT CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT? (If "Yes," complete Item 11B)	
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	
12. HAVE YOU BEEN AWARDED ANY CONTRACTS OR SUBCONTRACTS FOR THE SAME OR SIMILAR ITEMS WITHIN THE PAST 3 YEARS? (If "Yes," identify item(s), customer(s) and contract number(s))		13. IS THIS PROPOSAL CONSISTENT WITH YOUR ESTABLISHED ESTIMATING AND ACCOUNTING PRACTICES AND PROCEDURES AND FAR PART 31 COST PRINCIPLES? (If "No," explain)	
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	
14. COST ACCOUNTING STANDARDS BOARD (CASB) DATA (Public Law 91-379 as amended and FAR PART 30)			
A. WILL THIS CONTRACT ACTION BE SUBJECT TO CASB REGULATIONS? (If "No," explain in proposal)		B. HAVE YOU SUBMITTED A CASB DISCLOSURE STATEMENT (CASB DS-1 or 2)? (If "Yes," specify in proposal the office to which submitted and if determined to be adequate)	
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	
C. HAVE YOU BEEN NOTIFIED THAT YOU ARE OR MAY BE IN NON-COMPLIANCE WITH YOUR DISCLOSURE STATEMENT OR COST ACCOUNTING STANDARDS? (If "Yes," explain in proposal)		D. IS ANY ASPECT OF THIS PROPOSAL INCONSISTENT WITH YOUR DISCLOSED PRACTICES OR APPLICABLE COST ACCOUNTING STANDARDS? (If "Yes," explain in proposal)	
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	
This proposal is submitted in response to the RFP, contract, modification, etc. in Item 1 and reflects our best estimates and/or actual costs as of this date and conforms with the instructions in FAR 15.804-6(b) (2), Table 15-2. By submitting this proposal, the offeror, if selected for negotiation, grants the contracting officer or an authorized representative the right to examine, at any time before award, those books, records, documents and other types of factual information, regardless of form or whether such supporting information is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of the proposed price.			
15. NAME AND TITLE (Type)		16. NAME OF FIRM	
17. SIGNATURE		18. DATE OF SUBMISSION	



**Wednesday
May 18, 1988**

Part V

**Department of
Education**

**Office of Special Education and
Rehabilitation Services**

**Experimental and Innovative Training
Program; Notice**

WILLIAMSON TO THE MTRB
RE: CROWN LANDS
AND FORESTS
IN THE
PROVINCE OF
MANITOBA
FOR
THE
YEAR
1874

Description of Estuaries

Vol. I.—Estuaries of the St. Lawrence River
and the Great Lakes
with Descriptions of
the Fishes Found in
them.

DEPARTMENT OF EDUCATION**Office of Special Education and Rehabilitation Services****Experimental and Innovative Training Program****AGENCY:** Department of Education.**ACTION:** Notice of final funding priorities for fiscal year 1988.

SUMMARY: The Secretary announces annual funding priorities for training grants under the Experimental and Innovative Training Program in order to ensure effective use of program funds and to direct funds to areas of identified personnel need during fiscal year 1988. The Secretary gives an absolute preference to applications that meet the terms of the priorities.

EFFECTIVE DATE: These final funding priorities take effect either 45 days after publication in the *Federal Register* or later if Congress takes certain adjournments. If you want to know the effective date of the final funding priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Toby Lawrence, Division of Resource Development, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3326—M/S 2312), Washington, DC 20202. Telephone: (202) 732-1351.

SUPPLEMENTARY INFORMATION: Grants for the Experimental and Innovative Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Experimental and Innovative Training Program are established at 34 CFR Part 387. The purpose of the Experimental and Innovative Training Program is to support projects designed to develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to persons with severe disabilities and to develop new and improved methods of training rehabilitation personnel to achieve more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit

agencies and organizations, including institutions of higher education.

On March 3, 1988 the Secretary published a notice of proposed priorities for this program in the *Federal Register* (53 FR 6948-4). Except for minor technical revisions, there are no significant differences between these final priorities and the proposed priorities.

Final Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications submitted under the Experimental and Innovative Training Program that address the priorities described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priorities.

Priority 1

The training under this priority must address the training of rehabilitation counselors and supervisors of rehabilitation counselors in State vocational rehabilitation agencies to provide effective rehabilitation services to traumatically brain-injured adults. The training must upgrade their knowledge and improve their skills: (1) To determine and substantiate the eligibility of traumatically brain-injured adults to receive rehabilitation services; (2) to evaluate the functional capacities of traumatically brain-injured adults; (3) to plan and deliver effective vocational and independent living rehabilitation services to traumatically brain-injured adults; (4) to coordinate community resources in the rehabilitation plan to address their needs; (5) to utilize rehabilitation engineering resources; and (6) to develop jobs for and place traumatically brain-injured adults in employment.

The training must include an emphasis in its curriculum on improving the capacity of personnel trained to develop linkages between providers of special education and vocational rehabilitation services and enhance coordination and transition among service providers. The training must include technical assistance to rehabilitation continuing education programs to increase their capacity to train employed personnel to provide improved rehabilitation services to traumatically brain-injured adults. This technical assistance is intended to ensure the integration and replication of training supported under this priority by rehabilitation continuing education

programs. In addition, written training materials and visual aids must be developed and made available to rehabilitation continuing education programs for their use in training rehabilitation personnel to provide effective services to traumatically brain-injured adults. Program regulations for the Rehabilitation Continuing Education Programs are established at 34 CFR Part 389.

Priority 2

The training under this priority must address the training of direct service personnel to provide community-based supported employment services.

The 1986 Amendments to the Rehabilitation Act of 1973 established a State supported employment formula grant program and added supported employment as an acceptable employment outcome under the traditional vocational rehabilitation program under Title I of the Act. While supported employment is a viable rehabilitation method for achieving competitive employment for individuals with the most severe handicaps, there is critical shortage of direct service personnel, such as job coaches, to provide supported employment services. Unless this shortage is addressed, the full benefits of the new program and services under the vocational rehabilitation program may be delayed unnecessarily.

Training under this priority must be non-academic in nature. The training approach should include a sequential series of workshops or seminars and practicum experiences in community-based settings that directly involve trainees in providing supported employment services to individuals with the most severe handicaps. Programs should provide intensive training in all skill areas necessary for direct service personnel to provide effective supported employment services. Individuals who will be trained in the program should have prior experience in working with individuals with severe handicaps and may be currently employed, recruited from retirement, or already participating in another educational training program. The training may be supplementary to an existing training program.

Authority: 29 U.S.C. 774.
(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

Dated: May 4, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88-11094 Filed 5-17-88; 8:45 am]

BILLING CODE 4000-01-M

U.S. GOVERNMENT
PRINTING OFFICE
1988

Wednesday
May 18, 1988

Part VI

**Department of
Transportation**

Coast Guard

**46 CFR Parts 50, 56, and 61
Vessel Piping Systems; Supplemental
Notice of Proposed Rulemaking**

DEPARTMENT OF TRANSPORTATION**Coast Guard****46 CFR Parts 50, 56, and 61**

[CGD 77-140]

Vessel Piping Systems**AGENCY:** Coast Guard, DOT.**ACTION:** Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the vessel piping systems regulations to clarify technical requirements, correct errors, and revise the lists of acceptable standards and specifications. In addition, these proposed amendments would delete the manufacturers' affidavit system used to verify compliance of various piping components with the regulations and, instead, would incorporate industry developed standards. The affidavit system has proven to be flawed and misunderstood and many regulations are confusing or out of date. These changes would eliminate the submission of technical information for these components and reduce the overall cost burden in staff hours and paperwork for both industry and the Government, while providing a better method for ensuring that the components comply with Coast Guard regulations.

DATES: Comments must be received on or before July 18, 1988.

ADDRESSES: Comments may be mailed to Commandant (G-CMC/21) (CGD 77-140), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001. Comments will be available for examination or copying between 8 a.m. and 3 p.m., Monday through Friday, except holidays, at the Office of the Marine Safety Council, Room 2110, at the above address. Telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mr. Howard L. Hime, Office of Marine Safety, Security and Environmental Protection, (202) 267-2206.

SUPPLEMENTARY INFORMATION: On January 9, 1985, the Coast Guard published a Notice Of Proposed Rulemaking (NPRM) entitled "Miscellaneous Changes to Parts 50 and 56" (50 FR 1072). On March 21, 1985, the period for receipt of comments was extended an additional 63 days (50 FR 11397). Since the date of the NPRM, the Coast Guard has made extensive changes and additions to the proposal. Because the comments received do not address these changes, the Coast Guard is publishing this Supplemental Notice of Proposed Rulemaking (SNPRM).

retitled "Vessel Piping Systems," and asking interested parties again to submit comments.

The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 77-140) and the specific section of the proposal to which each comment applies, and give the reasons for the comment. If acknowledgment of receipt of a comment is desired, a stamped, self-addressed postcard or envelope should be enclosed.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. The proposal may be changed in view of the comments received. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the *Federal Register* if requested in writing and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this document are Mr. Howard L. Hime, Project Manager, and Mr. Stephen H. Barber, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Rule

This proposal is intended to clarify certain technical requirements for vessel piping systems in 46 CFR Part 56, correct errors, and revise the lists of acceptable standards and specifications. In addition, this proposal would delete from 46 CFR Part 50 the manufacturers' affidavit system used to verify compliance of various piping components with the regulations and, instead, would incorporate industry developed standards. Under 46 CFR 50.05-1, these proposals would have no effect on installations and equipment already accepted by Coast Guard marine inspectors and maintained in good and serviceable condition. However, when a piece of equipment or a system is replaced, these proposals (as well as other regulations issued after the original date of acceptance) which relate to the equipment or system would be applicable to the replacement.

The reference to nuclear piping systems has been removed from various places in these regulations because these systems are required to meet the nuclear system regulations in 46 CFR Part 55. These references should have been removed when 46 CFR Part 55 was revised to include nuclear piping systems.

The term "pound" and its abbreviation "1b." appear in various places in the existing regulations to identify different pressure classes of piping components, such as valves, flanges, and fittings. The term "pound" or "1b." has been replaced by the term "class" in the text of ANSI B31.1 and in the title of several adopted ANSI standards. To bring our regulations up to date, the term "class" is being substituted for the term "pound" or "1b." For example, in § 56.25-10(b), the reference to "150 pound standard steel flanges" is revised to read "class 150 standard steel flanges".

1. *Section 50.10-20.* This section would be revised to correct the zip code in the mailing address of the Office of the Commandant.

2. *Section 50.15-20.* Paragraph (a) would be revised to include additional organizations whose standards are to be incorporated by reference into these regulations. Many organizations presently listed in this section have moved since this subchapter was last amended. Addresses of those organizations would be corrected with this rulemaking. Additionally, the organizational listing would be alphabetized to simplify locating organizations on the list.

3. *Section 50.20-5.* Paragraphs (c) and (d) would be revised to correct the zip code in the mailing address of Commandant (G-MTH) and of the Marine Safety Center.

4. *Section 50.20-15.* Paragraph (a)(3) would be revised to permit manufacturers to fabricate equipment in accordance with previously approved plans without having to resubmit the plans for review, provided that a copy of each approved plan is available for review by the approving office. With the merger of the three field technical offices into the Marine Safety Center, the existing requirement for the original plan approval to have been given by the same office from which the new approval is desired becomes moot. Marine inspectors must always have access to plans which approve items of equipment so they may ensure that fabrication is done in accordance with methods which have been determined to comply with the applicable regulatory requirements.

5. *Subpart 50.25.* This subpart would be retitled and revised to delete the affidavit system and incorporate appropriate industry standards for each specific item covered. The affidavit system was developed in the hopes of providing a convenient means for manufacturers of various piping components to certify to the Coast

Guard that they are knowledgeable of Coast Guard regulations pertaining to inspected and certificated vessels and that components manufactured by them and destined to be installed on those vessels comply with the regulations. This system was intended to enable vessel owners and shipbuilders to order shipboard piping components from participating manufacturers and be sure that those components comply with Coast Guard regulations. At the time, it was believed that the affidavit system would expedite plan review because reviewers would be able to determine a piping component's acceptability simply by checking to see if it was manufactured by an accepted supplier. While the system appeared to have merit, in reality it proved to be flawed. It has proven to be misunderstood and misused by manufacturers, distributors, vessel designers, builders, owners, and Coast Guard personnel. Products supplied by, or ordered from, manufacturers who have submitted affidavits are often found not to comply with applicable regulations, however, because they are supplied by accepted manufacturers, they are often assumed to be satisfactory. The result is that purchasers and the Coast Guard cannot be sure that piping components meet the applicable regulatory requirements. Also, the affidavit system did not reduce our plan review time as intended because all components must still be checked to verify that they are suitable for their intended purpose.

Under 46 CFR 50.25-10(a), the use of affidavits is to terminate when appropriate standards are available. Since 1968, many industry standards for piping system components have been developed. Many of these are incorporated by reference into 46 CFR Part 56. The American Society for Testing and Materials (ASTM), through its Committee F-25 on Shipbuilding Standards, has established an Affidavit Task Group to develop standards for piping components not presently covered by a standard and their work is nearly complete. This rulemaking proposes to incorporate those completed standards which are considered suitable for inclusion into the regulations. In addition, standards which are completed prior to publication of the final rule which conform to the regulations will be incorporated in the final rule. Components constructed to referenced standards would be suitable for use within their design pressure and temperature ratings aboard inspected and certificated vessels. Where the regulations permit, manufacturers would have the option of fabricating piping

system components to these adopted standards or of meeting the performance requirements specified in the regulations.

6. *Section 50.25-1.* This section would be revised to describe the basic acceptance criteria for materials and piping components and to remove existing Table 50.25-1(a). Paragraph (b) would inform manufacturers how to gain acceptance of materials and piping components by means of manufacturer or mill certificates. These procedures would remain virtually unchanged from the procedures currently followed by manufacturers of those components.

Paragraph (c) would be added to indicate that the acceptance of valves, fluid conditioner fittings, and special purpose fittings complying with an adopted industry standard would be through review of appropriate marking indicating compliance with the adopted industry standard.

Paragraph (d) would be added to formalize the submittal procedures currently followed by manufacturers of components which are accepted through vessel plan review, resulting in specific letters of approval or approved plans. Components are reviewed on a case-by-case basis in order that their suitability for intended applications can be verified. These reviews are done by the Marine Safety Center or the Officer in Charge, Marine Inspection, having cognizance over the actual installation of these products and are usually done in conjunction with the review of the entire piping system in which the component will be installed. Requests for such reviews are made by the vessel owner or authorized representative so that the Marine Safety Center or cognizant Officer in Charge, Marine Inspection, can deal with a single point of contact rather than with the multitude of manufacturers which supply individual components to the vessel.

Paragraph (e) would formalize the procedures currently followed for acceptance of nonmetallic hose assemblies and hydraulic components which require shock testing. These items are required to be individually accepted by the Commandant. Specific letters of acceptance for these items are issued after they have been shown to conform to applicable regulations. Specific installations of these components are then reviewed and approved by the Marine Safety Center or cognizant Officer in Charge, Marine Inspection.

Paragraph (f) would require a vessel owner or representative to make available to the Officer in Charge, Marine Inspection, the manufacturer or mill certificates, approval letters, or

approved plans which grant acceptance of the piping components, in order to verify compliance with the regulations.

Table 50.25-1(a) would be removed. Many of the requirements summarized in it would be eliminated. That information which remains unchanged would be incorporated into the wording of the regulations.

7. *Section 50.25-3.* Paragraph (a) would be revised by changing "physical properties" to "mechanical properties" to reflect accepted terminology.

8. *Section 50.25-5.* Paragraph (a) would be revised by removing the reference to Table 50.25-1(a). Paragraph (d)(3) would be revised by changing "physical properties" to "mechanical properties".

9. *Section 50.25-7.* Paragraph (a) would be revised by removing the reference to Table 50.25-1(a).

10. *Section 50.25-10.* This section would be revised entirely to delete the affidavit system. Paragraph (a) would specify the information to be submitted by manufacturers desiring acceptance of piping components which do not comply with an adopted industry standard. This information is essentially the same as that presently required to be submitted by manufacturers desiring to have affidavits accepted by the Coast Guard.

Paragraph (b) would specify how acceptance is designated by the Marine Safety Center or the cognizant Officer in Charge, Marine Inspection.

11. *Sections 50.25-15 through 50.25-40.* These sections would be removed because special review or acceptance requirements would no longer be necessary for these piping components. The requirements in proposed § 50.25-10 would apply to acceptance of these piping components.

12. *Section 56.01.* In the note to Subpart 56.01, the reference to USAS-B31.1 has been revised to read ANSI B31.1. In 1969, the USA Standards Institute (USAS) became the American National Standards Institute (ANSI).

13. *Section 56.01-10.* In Paragraph (c)(1), the reference to nuclear systems would be removed because these systems are required to meet 46 CFR Part 55.

14. *Section 56.07-5.* Paragraph (e) would be revised to clarify the definition of a "nonstandard fitting."

15. *Section 56.15.* The heading of Subpart 56.15 would be changed to read simply "Fittings". This subpart would be divided into three sections which would separate and delineate the requirements for pipe joining fittings, fluid conditioner fittings, and special purpose fittings. This would be done to allow manufacturers of each type fitting to

easily identify the requirements which their product must meet.

16. *Section 56.15-1.* This section would be revised by changing the heading to read "Pipe joining fittings" and by adding specific requirements for those components.

Paragraph (a) of this section would instruct manufacturers of fittings on how to obtain acceptance of their products.

Paragraph (b) would state the acceptability of fittings manufactured in accordance with standards referenced in these regulations. The remainder of the section would provide guidance for manufacturers of nonstandard pipe joining fittings who desire to have their product accepted for use aboard Coast Guard inspected and certificated vessels.

17. *Section 56.15-5.* A new section entitled "Fluid conditioner fittings" would be added.

Paragraph (a) of this section would instruct manufacturers of fluid conditioner fittings on how to obtain acceptance of their products.

Paragraph (b) would state the acceptability of fluid conditioner fittings manufactured in accordance with standards referenced in these regulations. The remainder of the section would provide guidance for manufacturers of nonstandard fluid conditioner fittings who desire to have their product accepted for use aboard Coast Guard inspected and certificated vessels.

18. *Section 56.15-10.* A new section entitled "Special purpose fittings" would be added.

Paragraph (a) of this section would instruct manufacturers of special purpose fittings on how to obtain acceptance of their products.

Paragraph (b) would state the acceptability of special purpose fittings manufactured in accordance with standards referenced in these regulations. The remainder of the section would provide guidance for manufacturers of nonstandard special purpose fittings who desire to have their product accepted for use aboard Coast Guard inspected and certificated vessels.

19. *Section 56.20-1.* This section would be amended to reflect the fact that valves would no longer be covered by the affidavit system.

Paragraph (a) of this section would instruct valve manufacturers on how to obtain acceptance of their products.

Paragraph (b) would permit the use of non-welded valves manufactured to adopted standards provided the valves are used within their specified pressure and temperature ratings, meet the limitations of § 56.07-10(c) as

appropriate, and are constructed of materials complying with Subpart 56.60 of this part.

Paragraph (c) would delineate the requirements which must be met by manufacturers of all other type valves.

Paragraph (d) would be revised by changing "ANSI-B16.5" to "ANSI B16.34". This change would require any penetration of the pressure wall of the valve to meet the requirements for auxiliary connections in ANSI B16.34 and reflects the proposed adoption of ANSI B16.34 for valves.

20. *Section 56.20-15.* Paragraph ((b)(2)(ii)) would be revised by changing "firemain" to "fixed fire extinguishing systems." All fire fighting systems, not just the firemain, must function effectively during a fire. A Category B resiliently seated valve does not provide effective closure when the resilient material in the valve is damaged or destroyed, as would almost certainly occur when the material is subjected to a fire. Therefore, Category B valves would be prohibited in all fixed fire extinguishing systems.

21. *Section 56.25-5.* In existing paragraph (a), the reference to Appendix II, Part A, and UA-47 of Section VIII of the ASME Code would be changed to refer to Appendix 2 of Section VIII of the ASME Code. This reflects an editorial change in the ASME Code in which the Roman numeral II was revised to the Arabic number 2. Also, the reference to Table 126.1 of ANSI-B31.1 would be removed for clarification. There is no substantive in requirements.

Existing paragraph (b) would be removed because flanges would no longer be covered by the affidavit system.

22. *Section 56.25-10.* The term "pound" in paragraph (b) would be changed to "class" without changing the substance of the provision.

23. *Section 56.25-20.* In paragraph (a)(1), the reference in Table 126.1 of ANSI B31.1 would be removed because § 56.60-1(b) replaces Table 126.1. In paragraph (a)(3), "§ 56.30-15(b)" would be corrected to "§ 56.30-15(c)".

In paragraphs (a)(1) and (b), the term "pound" would be changed to "class" without changing the substances of the provision.

24. *Section 56.30-5.* Several changes would be made to the requirements for welded joints in this section. In paragraph (b), "ASNI" is corrected to read "ANSI".

In paragraph (c)(1), the reference to "Table 126.1 of ANSI B31.1" would be changed to "Table 56.60-1(b)" because Table 56.60-1(b) replaces Table 126.1. Also, a reference to the socket weld requirements for flanges in § 56.30-

10(b)(4) through (b)(6) would be added because they modify ANSI B31.1.

In paragraph (c)(2), a reference to the section containing restriction on the use of socket welds for low temperature piping would be added. The reference to nuclear piping systems would be removed because these systems are required to meet the nuclear systems regulations in 46 CFR Part 55.

Paragraph (c)(3) would be revised to conform to the latest edition of ANSI B31.1.

In paragraph (d), the references for fillet weld sizes to ANSI-B31.1 Figures 127.4.4B for flanges and 127.4.4C for socket-welds would be changed to §§ 56.30-10 and 56.30-5(c), respectively, to reflect the proposed changes in § 56.30-5(c) for fillet weld sizes.

25. *Section 56.30-10.* Several changes would be made to the requirements for flanged joints. In paragraphs (b)(2) through (b)(4), the term "pound" would be changed to "class" without change in meaning.

Paragraph (b)(2) would be reworded to clarify that threaded flanges with a strength fillet weld may be used in Class I systems not exceeding 750° F or 4 NPS, in Class II systems without diameter limitation, and in Class II-L systems not exceeding 1 NPS. The current requirements are confusing and conflict with other sections of the regulations. Currently, paragraph (b)(2) would permit a low-hubbed flange with screw threads plus a strength fillet weld to be used in Class I systems without diameter limitation. However, existing § 56.70-15(d)(3) requires butt type weld joints to be used in Class I systems when full radiography is required as in § 56.95-10 for systems exceeding certain pipe diameters. Existing §§ 56.30-20 and 56.70-15(d)(3) permit threaded and socket-type joints to be used in Class II piping systems without restrictions as to size. Existing § 56.50-105(a)(4) prohibits the use of threaded joints in Class I-L systems. For Class II-L systems, existing § 56.50-105(b)(4) permits threaded joints in sizes 1 inch and smaller.

In paragraph (b)(4), the reference to the section containing restrictions on the use of socket welds for low temperature piping would be added. The reference to nuclear piping systems would be removed because these systems are required to meet the nuclear system regulations in 46 CFR Part 55.

26. *Section 56.30-20.* In paragraph (b), "Table 126.1 of ANSI-B31.1" would be changed to read "Table 56.60-1(b)" because Table 56.60-1(b) replaces Table 126.1. In note 1 of Table 56.30-20(c) and paragraph (d), the reference to nuclear systems would be removed because

these systems are required to meet 46 CFR Part 55.

27. *Section 56.30-25.* In paragraph (a), "Table 126.1 of ANSI-B31.1" would be changed to read "§ 56.60-1" because § 56.60-1 replaces Table 126.1. In paragraph (d), a requirement to permit threads other than taper pipe threads would be added. This would permit fittings with straight pipe threads and O-ring face seals to be used. In paragraph (f)(2), redundant language would be removed, as would the reference to § 50.25-10, because that section is completely revised in this proposed rulemaking.

28. *Section 56.30-27.* "118 of ANSI-B31.1" would be changed to "116 of ANSI B31.1" to conform with current designation.

29. *Section 56.30-40.* In paragraph (e), flexible couplings manufactured in accordance with standards adopted by these regulations would be permitted to be used within the material, size, pressure, and temperature limitations as set forth in those standards and within further limitations specified in this subchapter. Additional requirements for flexible couplings fabricated by welding are specified. The distinction between flexible couplings rated below 15 psig and those rated above 15 psig would be eliminated.

In paragraph (f), the term "screwed" would be changed to "threaded" with no change in meaning.

30. *Section 56.35-1.* The reference to nuclear piping systems in paragraph (a) would be removed because these systems are required to meet the nuclear systems regulations in 46 CFR Part 55.

31. *Section 56.35-10.* This section would be amended to eliminate the distinction between nonstandard special purpose fittings with maximum allowable pressures not exceeding 15 psig and those which do exceed 15 psig. This section would be changed to specify requirements for nonmetallic expansion joints regardless of their rated pressure. Nonmetallic expansion joints would be required to comply with standards adopted in the regulations. Also specified would be installation requirements.

The proposed requirements for nonmetallic expansion joints is a direct result of two recent vessel casualties. Both vessels had severe engineroom flooding when nonmetallic expansion joints in sea water service lines failed. These amendments would reduce the likelihood of similar casualties.

32. *Section 56.35-15.* This section would be amended to apply only to metallic expansion joints. The distinction between metallic expansion joints rated above 15 psig and those

rated below 15 psig would be removed. This section would be changed to require metallic expansion joints to comply with adopted standards and would instruct manufacturers how to gain acceptance of their products.

33. *Section 56.50-50.* In paragraph (k), the word "deep" would be removed in two places to clarify that the provisions apply to all tanks. The existing regulation is intended to prevent flooding of spaces to undesired mixing of fluids through piping that is damaged or corroded in tanks. Because the term "deep tanks" has been variously interpreted in the past, the limitation of this requirement to "deep tanks" is removed and the provision made applicable to all tanks. Additionally, an exemption from the requirements of this paragraph would be included for bilge and ballast piping installed in tanks, provided strength and stability calculations show that crossflooding will not seriously affect the safety of the ship and the contents of the tank and piping system are compatible.

34. *Section 56.50-55.* Paragraph (c) would be modified to clarify misunderstandings about required bilge pump capacities. The present wording of this paragraph requires each power bilge pump to have the capacity to develop a suction velocity of not less than 400 feet per minute through the size of bilge suction pipe required by § 56.50-50. Existing § 56.50-50(d) requires that the internal diameter of bilge suction pipes be as determined by a specified formula, but it also permits the use of the nearest commercial pipe size provided that it is not more than one fourth inch under the required diameter. The question has arisen as to whether or not the bilge pump capacity can be based on producing a flow velocity of 400 feet per minute through the smaller pipe instead of being based on the required pipe size as determined by formula. This would permit a bilge pump with a lesser capacity. Conversely, if an owner opts to install a larger bilge suction pipe, a flow velocity of 400 feet per minute would necessitate a pump with a greater capacity. Paragraph (c) would be amended to require each bilge pump to be capable of developing a velocity of 400 feet per minute through the size of bilge main piping required by existing § 56.50-50(d)(1). In cases where smaller piping is permitted or where the owner opts to install larger piping, the required bilge pump parameter would remain unaffected, and the volumetric flow rate through the bilge piping would be the same.

35. *Section 56.50-60.* Paragraph (d)(3)(i) would be revised by changing "all" to "fluid" in the second sentence.

Only valves actuated by hydraulic or pneumatic power are intended to be provided with energy storage systems. Electrically operated valves would not be required to have stored energy sources.

36. *Section 56.50-65.* The word "propulsion" in paragraph (b)(1) would be removed to clarify that the requirements apply to both propulsion and auxiliary oil fired boilers. In paragraph (d), the term "screwed-bonnet" would be changed to "threaded-bonnet" with no change in meaning.

37. *Section 56.50-85.* Paragraph (a)(4) would be revised to require that all vents extend above the weatherdeck. Vents from fresh water tanks, bilge oily-water holding tanks, bilge slop tanks, and tanks containing Grade E combustible liquids, such as lubricating oil, would be permitted to terminate within the machinery space provided that: (1) Vents are arranged to prevent an overflow from impinging on machinery, electrical equipment, or hot surfaces; (2) tanks containing combustible liquids are not heated; and (3) vents terminate above the deep load waterline whenever the tank being vented has a boundary in common with the hull.

Existing paragraph (a)(4-a) would be redesignated as paragraph (a)(5) and be amended to delete the requirement that vents from ballast and fuel oil tanks extend above the weatherdeck. This requirement would be included in the proposed change to § 56.50-85(a)(4).

Existing paragraph (a)(5) would be redesignated as paragraph (a)(6) and be amended to define a vent "of substantial construction." This requirement is derived from Regulation 20 of the 1966 International Load Line Convention. This proposal replaces "substantial construction" of vent pipes with the requirement that they be "at least Schedule 40 in wall thickness." This size requirement would not impose an undue burden on industry because Schedule 40 pipe has been required by ABS Rules since 1983. Additionally, the minimum required height for vents terminating on the superstructure deck would be reduced from 18 inches to 17½ inches. This would make the vent height requirements of this subchapter identical to those found in Subchapter E, "Load Lines," and the ABS Rules.

Paragraph (a)(6) through (a)(12) would be redesignated as (a)(7) through (a)(13).

Paragraph (b) would be added for the following reasons. Tank vents should remain within the watertight subdivision boundaries in which the tanks they vent are located. On occasion, where structural configuration dictates that the

contents of the tank be vented in an interior space, the Coast Guard has allowed tank vents to penetrate watertight subdivision bulkheads and terminate in adjacent compartments. A recent vessel casualty resulted in intercompartmental flooding when water flowed from a flooded compartment, through a tank vent penetrating the subdivision bulkhead, and into the adjacent compartment. This occurred despite the fact that the drains were fitted with check valves intended to prevent such an occurrence. Because of this, the National Transportation Safety Board recommended that whenever tank vents penetrate watertight bulkheads they be required to terminate above the weather deck. This recommendation would be incorporated into new paragraph (b). Additionally, the more fundamental issue would be addressed. Tank vents would be required to remain within the boundaries of the watertight subdivision in which the tanks they vent are located unless structural configurations would make meeting this requirement impractical.

38. *Section 56.50-96.* Paragraph (a)(2)(iv) would be revised to clarify the fairing requirements for keel coolers.

39. *Section 56.60-1.* The section heading and paragraph (b) would be amended to clarify their intent. Some readers construe the existing wording to mean that Table 126.1 of ANSI B31.1 remains in effect and that materials permitted by the acceptable commercial standards listed in Table 56.60-1(b) were accepted even though the materials did not meet § 56.60-1(a). To avoid confusion, the following nonsubstantive changes are proposed.

The section heading and the note to Table 56.60-1(a) would be amended because the table replaces Table 126.1 of ANSI B31.1.

Note 16 to Table 56.60-1(a) would be amended by correcting "§ 56.00-20" to read "§ 56.60-20".

Table 56.60-1(b) would be amended as follows:

(a) ANSI B2.2 is removed because it is obsolete and replaced by ANSI B1.20.3.

(b) MSS standard SP-37 is removed because it is obsolete.

(c) MSS standard SP-42 is removed because ANSI B16.34 covers the same items.

(d) ANSI standards B1.20.3, B16.34, and B16.42 are added.

(e) ASTM standards F682-82a, F1006-86, F1007-86, F1020-86, F1120-87, and F1123-87 are added.

Other ASTM standards for traps, drains, strainers, filters, quick disconnect couplings, fuel oil meters, nonmetallic

expansion joints, and ball type expansion joints are currently under joint ASTM/Coast Guard/industry development. The standards being developed or being referenced in this proposal, contain technical requirements identical to those in the existing regulations applicable to the component. New ASTM standards conforming to existing or proposed regulations which are published before the final rule will be added at that time.

(f) The titles of several standards in the current edition are updated.

(g) The current addresses for Manufacturer's Standardization Society and Fluid Controls Institute are added.

(h) Footnote 3 (applicable to ANSI B16.5, B16.9, B16.24, and B16.34) and Footnote 4 (applicable to ANSI B16.14, B16.15, B16.18, B16.22, B16.23, B16.28, and B16.29, MSS SP-44, SP-51, SP-67, and SP-72, to FCI 69-1, and to ASTM F1006-86 and F1020-86) are added. These notes would inform readers of the additional information needed to determine compliance with general material regulations when components made to various adopted standards are selected. They would not change existing requirements but would make the combined effect of regulations, such as § 56.15-10(a), Subpart 50.25, § 50.15-1(a), and Subpart 56.80, clearer to the reader.

40. *Section 56.60-2. Note 9 Table 56.60-2(a)* would be amended by correcting "ATMS B154" to read "ASTM B154".

41. *Section 56.60-10.* Paragraph (a) would be revised to clarify the intent that valves made of cast iron or malleable iron are limited to the pressure-temperature ratings in ANSI B16.1 for class 125 and class 250 flanges and fittings. Currently ANSI B16.1 contains requirements for cast iron flanges and fittings in classes 25, 125, 250, and 800. Originally, these classes were in different standards and ANSI B16.1 contained requirements for only class 125 flanges and fittings. Only ANSI B16.1 and B16.2, which contained requirements for class 250 flanges and fittings, were adopted in the regulations (33 FR 18843; December 18, 1968). In 1975, when ANSI B16.2 were discontinued and ANSI B16.1 was revised to include requirements for classes 25, 125, 250, and 800 flanges and fittings, the regulations were changed to delete ANSI B16.2 and adopt ANSI B16.1 for classes 125 and 250 only (40 FR 40165; September 2, 1975). However, through printing errors this change is not incorporated completely in later editions of 46 CFR Part 56.

42. *Section 56.60-15.* This section would be amended by deleting reference

to ASTM A445, which is obsolete, and by including provisions for using ductile iron castings in hydraulic systems operating at pressures exceeding 1,000 psi. These provisions are being proposed at the request of industry because they are now using components in this pressure range.

43. *Section 56.60-25.* Paragraph (a)(7)(i) would be amended by adding ASTM D2665, which is suitable for sewage service and is frequently used for Marine Sanitation Device (MSD) installations. The material types would be removed to be consistent with revisions to the ASTM standards which no longer refer to material types.

Paragraph (a)(10) would be amended by including a burning rate for glass reinforced resins and other plastics. This is necessary because the acceptance criteria for flammability has been removed from ASTM D635. This burning rate is the same as that required by proposed ASTM F927 for fiberglass reinforced pipe (FGP).

In paragraph (b)(1), the term "machine survey" would be corrected to read "machinery served" with no change in requirements.

Paragraph (c)(5) would be amended by correcting the word "and" in the second line to read "end". A sentence would be added to clarify requirements for end fittings. Society of Automotive Engineers (SAE) standard J1475 would be adopted for hose end fittings. This standard was developed jointly by the Coast Guard and the SAE Fluid Conductors and Connectors Technical Committee. Section 56.97-5 would be specified for the hydrostatic test to eliminate confusion with other hydrostatic tests in § 56.97.

Paragraph (e) would be removed because the requirements for nonmetallic expansion joints would be found in proposed § 56.35-10(b).

Existing paragraph (f) would be redesignated as paragraph (e).

44. *Section 56.70-10.* Paragraph (b) would be amended by requiring fillet welds for flanges to comply with § 56.30-10(b) instead of the requirements in Figure 127.4.4B of ANSI B31.1. This is necessary to avoid any conflict in the regulations because Figure 127.4.4B permits smaller size fillet welds than required by § 56.30-10(b).

45. *Section 56.70-15.* The reference in paragraph (b) to "Table 126.1 of ANSI B31.1" would be removed for clarification because § 56.60-1 replaces Table 126.1.

The reference in paragraph (c) to "127.4(c)" would be changed to "127.2(c)" to be consistent with the current edition of ANSI B31.1.

Paragraph (d)(1) would be amended by replacing references to Figures 127.4.4B and 127.4.4C of ANSI B31.1 with §§ 56.30-5(c) and 56.30-10(b) for fillet weld details because these sections modify the fillet weld provisions of ANSI B31.1.

Paragraph (d)(3) and (d)(4) would be amended by removing the requirement that the throat dimension of fillet welds be not less than the nominal thickness of the pipe or tube. Fillet weld sizes for socket-welding components would be required to meet § 56.30-5(c) (see proposed changes to § 56.70-15(d)(1)). The sizing of fillet welds has been reduced in ANSI B31.1 from a leg dimension of 1.4 times the nominal pipe wall thickness to 1.09 times the nominal wall thickness. The reduction to 1.09 times the nominal wall thickness provides an ideal throat size of 77% of the wall thickness. Section 56.30-5(c) permits this reduction in fillet weld size for socket weld components other than flanges.

46. Section 61.15-12. This new section would detail requirements for the inspection and replacement of expansion joints. In two recent vessel casualties, both vessels had severe engineroom flooding when nonmetallic expansion joints in sea water service lines failed. In this proposal, expansion joints would be required to be examined for signs of excessive wear, fatigue, deterioration, physical damage, misalignment, improper flange-to-flange spacing, and leakage during each inspection for certification. Additionally, nonmetallic expansion joints in systems which penetrate a vessel's side, where both the expansion joint and the hull penetration are below the deepest load waterline, would be required to be replaced ten years after their date of manufacture. This replacement interval is the same as currently required of nonmetallic expansion joints in manned machinery spaces aboard naval vessels.

Regulatory Evaluation

The proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft evaluation has been prepared and placed in the public docket. It may be inspected or copied at the Office of the Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC, (202) 267-1477, from 8 a.m. to 3 p.m. Copies may also be obtained by contacting that office.

Two major issues in the proposed regulations are the deletion of the

affidavit system and the addition of the requirement to periodically replace certain nonmetallic expansion joints. A study conducted in 1980 concluded that the deletion of the affidavit system would result in an estimated annual savings in excess of \$70,000 for the Coast Guard and \$500,000 for vessel owners. Adjusting these figures by the Producer Price Index for Finished Goods for the years 1980 to 1987 results in an estimated annual savings (in 1987 dollars) of \$84,000 for the Coast Guard and \$600,000 for vessel owners. These savings are based on the elimination of the overall cost of the affidavit system, which was determined by evaluating the costs incurred by the Coast Guard to grant initial affidavit acceptances, evaluate products of affidavited manufacturers, and verify the proper use of affidavited products, by manufacturers to comply with the requirements of the affidavit system, and by vessel owners to purchase products from affidavited manufacturers.

Requiring vessel owners to periodically replace nonmetallic expansion joints in seawater piping systems would result in an estimated annual cost (in 1987 dollars) to vessel owners of approximately \$2,520 for each steam propelled vessel and \$1,172 for each diesel propelled vessel. The economic benefits of periodic replacements of nonmetallic expansion joints are difficult, if not impossible, to quantify. However, when the costs of vessel replacement and the loss of daily vessel revenues which could result from expansion joint failures are considered, the economic benefits of periodic expansion joint replacement are substantial.

Persons interested in submitting information concerning the costs associated with meeting the proposed requirements are invited to do so. This information will be used in preparing the final evaluation.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard must consider whether the rule it is proposing is likely to have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

As described in the Regulatory Evaluation section above, the effect of this proposal is to reduce Coast Guard

and industry costs. Most of the changes proposed by this action are editorial in nature and would have a minimal economic impact. There is no reason to assume that the deletion of the affidavit system as a result of these proposed regulations would cause small entities to be unable to effectively compete against larger concerns. To the contrary, the elimination of the affidavit system would increase sales opportunities for new companies entering the marine market because prospective clients would be unable to require a company first to have an affidavit accepted by the Coast Guard. The regulations requiring periodic replacement of nonmetallic expansion joints would apply to owners of Coast Guard inspected and certificated vessels. Due to the cost of owning and operating a vessel, the annualized cost of replacements is not considered to have a significant impact. The cost will be less on smaller vessels than on larger ones. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if promulgated, would not have a significant impact on a substantial number of small entities. If, however, you feel that your business may qualify as a small entity and that the proposed rules would have a significant economic impact on your business, please notify the Coast Guard (see "ADDRESSES") and explain why you feel your business qualifies and in what way and to what degree the proposed regulations would economically affect your business.

Paperwork Reduction Act

This proposed rulemaking contains no new information or recordkeeping requirements. The information collection requirements contained in this proposed rulemaking have previously been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2115-0142. Proposed § 50.25-10 would eliminate the requirement for a manufacturer's affidavit, Form CG-935A, thus reducing this paperwork burden. The savings associated with this reduction have been previously discussed. However, in recent year less than five affidavits per year have been received.

Environmental Assessment

The Coast Guard has considered the environmental impact of the proposed regulations and concluded that, under section 2.B.2.I. of Commandant Instruction M16475.1B, these proposals will have no significant environmental impact and are categorically excluded

from further environmental documentation. The proposed regulations revise existing regulations to clarify technical requirements, correct errors, and substitute industry standards for existing regulatory requirements.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Incorporation By Reference

Approval of the Director of the Federal Register to incorporate by reference the following documents will be requested before the final rule is published. Copies of these documents are available as follows:

ANSI Standards B1.20.3, B16.34, and B16.42—the American National Standards Institute, 1430 Broadway, New York, NY 10018.

ASME Specification SA-675—the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

ASTM Specifications D2665, F682-82a, F1006-86, F1007-86, F1020-86, F1120-87, and F1123-87—the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103.

EJMA Standards—the Expansion Joint Manufacturers Association, Inc., 25 N. Broadway, Tarrytown, NY 10591.

MSS Standard SP-83—the Manufacturers' Standardization Society of the Value and Fittings Industry, 127 Park Street, NE, Vienna, VA 22180.

SAE Standard J-343—the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

These documents are also available for inspection at Office of Merchant Marine Safety, Room 1218, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington DC 20593-0001.

List of Subjects in 46 CFR Parts 50, 56, and 61

Marine safety, Vessels.

For the reasons set out in the preamble, it is proposed to amend Title 46, Parts 50, 56, and 61 of the Code of Federal Regulations as follows:

PART 50—GENERAL PROVISIONS

1. The authority citation for Part 50 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1347(c), 1348(c), 1356(a)(2); 46 U.S.C. 3306, 3703; 49 CFR 1.46.

2. Section 50.10-20 is revised to read as follows:

§ 50.10-20 Headquarters.

"Headquarters" means the Office of the Commandant, U.S. Coast Guard, Washington, DC 20593-0001.

3. In § 50.15-20, paragraphs (a)(1) through (a)(13) are revised and a new paragraph (a)(14) is added to read as follows:

§ 50.15-20 Additional standards.

(a) * * *

(1) American Boat and Yacht Council, Inc. (ABYC), 190 Ketchum Avenue, Amityville, NY 11701.

(2) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005.

(3) American Welding Society (AWS), United Engineering Center, 345 East 47th Street, New York, NY 10017.

(4) Commercial Standards, Commerce Department, National Bureau of Standards, Washington, DC 20234.

(5) Compressed Gas Association (CGA), 1235 Jefferson Davis Highway, Suite 501, Arlington, VA 22202.

(6) Expansion Joint Manufacturers Association, Inc. (EJMA), 25 North Broadway, Tarrytown, NY 10591.

(7) Fluid Controls Institute, Inc. (FCI), 31 South Street, Suite 303, Morristown, NJ 07960.

(8) Manufacturers' Standardization Society of the Value and Fittings Industry (MSS), 127 Park Street NE, Vienna, VA 22180.

(9) Military specifications, which may be obtained from the Commanding Officer, Naval Supply Depot, 5801 Tabor Avenue, Philadelphia, PA 19120.

(10) National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02269.

(11) National Fluid Power Association (NEPA), Post Office Box 49, Theinsville, WI 53092.

(12) Society of Automotive Engineers, Inc. (SAE), 400 Commonwealth Drive, Warrendale, PA 15096.

(13) Tubular Exchanger Manufacturers' Association, Inc. (TEMA), 25 North Broadway, Tarrytown, NY 10591.

(14) Underwriters' Laboratories, Inc. (UL), 12 Laboratory Drive, Research Triangle Park, NC 27709.

* * *

4. In § 50.20-5, paragraphs (c) and (d) are revised to read as follows and paragraph (c)(1) is removed:

§ 50.20-5 Procedures for submittal of plans.

* * *

(c) Plans for boilers and nuclear vessels may be submitted to the

Commandant (G-MTH), U.S. Coast Guard, Washington, DC 20593-0001. The plans will be reviewed and returned to the submitter and a copy forwarded to the Officer in Charge, Marine Inspection.

(d) Plans, other than those for boilers and nuclear vessels, may be submitted to the Marine Safety Center, U.S. Coast Guard, Washington, DC 20593-0100.

* * * * *

5. In § 50.20-15, paragraph (a)(3) is revised to read as follows:

§ 50.20-15 Previously approved plans.

(a) * * *

(3) A copy of the approved plan is available for review by the approving office.

Subpart 50.25 [Amended]

6. The heading of Subpart 50.25 is revised to read "Acceptance of Material and Piping Components."

7. Section 50.25-1 is revised to read as follows (and Table 5025-1(a) is removed):

§ 50.25-1 General.

(a) Materials and piping components used in the construction of boilers, pressure vessels, pressure piping systems, and related components are accepted by review of manufacturer or mill certificates under § 50.25-3, product marking in accordance with an adopted industry standard, or technical information indicating their compliance with the requirements of this subchapter.

(b) Materials and piping components, such as plate, bar stock, pipe, tube, standard pipe joining fittings (tees, elbows, reducers, etc.), bolting, castings, forgings, and flanges, are accepted by review of manufacturer or mill certificates. Manufacturers of these products must follow the provisions of §§ 50.25-3, 50.25-5, and 50.25-7 of this chapter.

(c) Valves, fluid conditioner fittings, and special purpose fittings complying with an adopted industry standard are accepted through review of marking indicating compliance with the adopted industry standard.

(d) Valves, fluid conditioner fittings, special purpose fittings, and pipe joining fittings not complying with an adopted industry standard are accepted for use on a case-by-case basis. Acceptance is granted by the Marine Safety Center or the Officer in Charge, Marine

Inspection, having cognizance over the installation of the product. To obtain acceptance of a product, the manufacturer must submit, via the vessel owner or representative, the

information described in § 50.25-10 to the Marine Safety Center or the cognizant Officer in Charge, Marine Inspection.

(e) Components designed for hydraulic service which require shock testing under § 50.30-15(f) of this chapter and nonmetallic flexible hose assemblies must be accepted by the Commandant. Manufacturers desiring acceptance of these products must submit information necessary to show compliance with §§ 56.60-25(c) or 58.30-17 of this chapter, as applicable.

Acceptance of specific installations of acceptable nonmetallic flexible hose assemblies and shock tested hydraulic components is granted by the Marine Safety Center or the cognizant Officer in Charge, Marine Inspection, as described in paragraph (d) of this section.

(f) The vessel owner or representative shall make available to the Officer in Charge, Marine Inspection, the manufacturer of mill certificates, specific letters of acceptance, or approved plans necessary to verify that piping components comply with the requirements of this subchapter.

§ 50.25-3 [Amended]

8. In § 50.25-3, "physical tests" in paragraph (a) is revised to read "mechanical properties".

§ 50.25-5 [Amended]

9. In § 50.25-5, "as listed in Table 50.25-1(a)," in paragraph (a) is removed and "physical properties" in paragraph (d)(3) is revised to read "mechanical properties".

§ 50.25-7 [Amended]

10. In § 50.25-7, "(refer to Table 50.25-1(a))" in paragraph (a) is removed.

11. Section 50.25-10 and its headings are revised to read as follows:

§ 50.25-10 Acceptance of piping components by specific letter or approved plan.

(a) A manufacturer of a piping component which does not comply with an adopted industry standard and requiring acceptance by specific letter or approved plan must do the following:

(1) Submit an engineering type catalog or representative drawings of the component which include the pressure and temperature ratings of the component and identify the service for which it is intended.

(2) Identify materials used to fabricate the component. Materials must meet the requirements of Part 56, Subpart 56.60 of this chapter. If the component is not manufactured to accepted material specifications, the manufacturer must

prove equivalency to accepted material specifications by comparing details of the material's chemical composition, mechanical properties, method of manufacture, and complete chemical and mechanical test results with an accepted material specification.

(3) Identify the industry standard, if any, to which the component is manufactured.

(4) Submit a description of nondestructive testing performed on the component.

(5) Submit a description of the marking applied to the component.

(6) Submit information showing compliance with the requirements of Part 56, Subparts 56.15, 56.20, 56.25, 56.30, or 56.35 of this chapter, as applicable.

(7) Submit any additional information necessary to evaluate the component's acceptability for its intended application.

(b) If the component is found to comply with the requirements of this subchapter, the component is designated as acceptable for its intended installation. This acceptance is in the form of a specific letter relating directly to the particular component or in the form of an approved piping system plan in which the component is identified as an integral part.

§ 50.25-15 through 50.25-40 [Removed]

12. Sections 50.25-15, 50.25-20, 50.25-25, 50.25-30, 50.25-35, and 50.25-40 are removed.

PART 56—PIPING SYSTEMS AND APPURTEANCES

13. The authority citation for Part 56 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

Subpart 56.01 [Amended]

14. In the note to Subpart 56.01 preceding § 56.01-1, "USAS-B31.1" is revised to read "ANSI B31.1".

§ 56.01-5 [Amended]

15. In Table 56.01-5(a) of § 56.01-5, "Table 126.1 modified by . . . 56.30-5(c)(3), 56.60-1" is revised to read "Table 126.1 replaced by . . . 56.60-1."

§ 56.01-10 [Amended]

16. In § 56.01-10(c)(1), remove paragraph.

§ 56.04-1 [Amended]

17. In Table 56.04-1 of § 56.04-1, remove the number "5" after "subchapter".

18. In § 56.07-5, paragraph (e) is revised to read as follows:

§ 56.07-5 Definitions (modifies 100.2).

(e) Nonstandard fittings.

"Nonstandard fitting" means a component of a piping system which is not fabricated under an adopted industry standard.

19. Subpart 56.15 consisting of §§ 56.15-1 through 56.15-10, and its heading are revised to read as follows:

Subpart 56.15—Fittings

§ 56.15-1 Pipe joining fittings.

(a) Manufacturers of pipe joining fittings may obtain acceptance of their fittings by following Part 50, Subpart 50.25 of this chapter.

(b) Threaded, flanged, socket-welding, butt-welding, and socket-brazing pipe joining fittings, made in accordance with the applicable standards in Tables 56.60-1(a) and 56.60-1(b) of § 56.60-1 and of materials complying with Subpart 56.60 of this part, may be used in piping systems within the material, size, pressure, and temperature limitations of those standards and within any further limitations specified in this subchapter. Fittings must be designed for the maximum pressure to which they may be subjected, but in no case less than 50 pounds per square inch gage.

(c) Nonstandard pipe joining fittings must meet the following:

(1) All pressure-containing materials must be accepted in accordance with § 56.60-1.

(2) Fittings must be designed so that the maximum allowable working pressure does not exceed one-fourth of the burst pressure or produce a primary stress greater than one-fourth of the ultimate tensile strength of the material for Class II systems and for all Class I, I-L, and II-L systems receiving ship motion dynamic analysis and nondestructive examination. For Class I, I-L, or II-L systems not receiving ship motion dynamic analysis and nondestructive examination under § 56.07-10(c), the maximum allowable working pressure must not exceed one-fifth of the burst pressure or produce a primary stress greater than one-fifth of the ultimate tensile strength of the material. The maximum allowable working pressure may be determined by—

(i) Calculations comparable to those of ANSI B31.1 or Section VIII of the ASME Code;

(ii) Subjecting a representative model to a proof test or experimental stress analysis described in paragraph A-22 of Section I of the ASME Code; or

(iii) Other means specifically accepted by the Commandant (G-MTH).

(3) Fittings must be tested in accordance with § 56.97-5.

(4) If welded, fittings must be welded in accordance with Subpart 56.70 of this part and Part 57 of this chapter or by other processes specifically accepted by the Commandant (G-MTH). In addition, the following requirements must be met:

(i) For fittings sized 3 inches and below—

(A) The longitudinal joints must be fabricated by either gas or arc welding;

(B) The first fitting of each size from the production line and at least one fitting from each lot of 100 or fraction thereof must be flattened cold until the opposite walls meet without the weld developing any cracks;

(C) One fitting of each size from each lot of 100 or fraction thereof must be hydrostatically tested to the pressure required for a seamless drawn pipe of the same size and thickness produced from equivalent strength material, as determined by the applicable pipe material specification; and

(D) If a fitting fails to meet the test in paragraph (c)(4)(i)(B) or (c)(4)(i)(C) of this section, the entire lot from which the fitting was chosen must be rejected.

(ii) For fittings sized above three inches—

(A) The longitudinal joints must be fabricated by arc welding;

(B) For pressures exceeding 150 pounds per square inch, each fitting must be radiographically examined as specified in Section VIII of the ASME Code;

(C) For pressures not exceeding 150 pounds per square inch, the first fitting from the production line and at least one fitting from each size in each lot of 20 or fraction thereof must be examined by radiography to ensure that the welds are of acceptable quality;

(D) One fitting of each size from each lot of 100 or fraction thereof must be hydrostatically tested to the pressure required for a seamless drawn pipe of the same size and thickness produced from equivalent strength material, as determined by the applicable pipe material specification; and

(E) If a fitting fails to meet the test in paragraph (c)(4)(ii)(C) or (c)(4)(ii)(D) of this section, the entire lot from which the fitting was chosen must be rejected.

(d) Single welded butt joints without the use of backing strips may be employed in the fabrication of pipe joining fittings of welded construction provided radiographic examination indicates that complete penetration is obtained.

(e) Each pipe joining fitting must be marked in accordance with MSS Standard SP-25.

§ 56.15-5 Fluid conditioner fittings.

(a) Manufacturers of fluid conditioner fittings may obtain acceptance of their fittings by following Part 50, Subpart 50.25 of this chapter.

(b) Fluid conditioner fittings, not containing hazardous materials as defined in § 150.115 of this chapter, which are made in accordance with the applicable standards listed in Table 50.60-1(b) of § 56.60-1 and of materials complying with Subpart 56.60 of this part, may be used within the material, size, pressure, and temperature limitations of those standards and within any further limitations specified in this subchapter.

(c) The following requirements apply to nonstandard fluid conditioner fittings which do not contain hazardous materials as defined in § 150.115 of this chapter:

(1) The following nonstandard fluid conditioner fittings must meet the applicable requirements in § 54.01-5 (c)(3), (c)(4), and (d) of this chapter or the remaining provisions in Part 54 of this chapter, except that Coast Guard shop inspection is not required:

(i) Nonstandard fluid conditioner fittings that have a net internal volume greater than 0.04 cubic meters (1.5 cubic feet) and that are rated for temperatures and pressures exceeding those specified as minimums for Class I piping systems.

(ii) Nonstandard fluid conditioner fittings that have an internal diameter exceeding 15 centimeters (6 inches) and that are rated for temperatures and pressures exceeding those specified as minimums for Class I piping systems.

(2) All other nonstandard fluid conditioner fittings must meet the following:

(i) All pressure-containing materials must be accepted in accordance with § 56.60-1.

(ii) Nonstandard fluid conditioner fittings must be designed so that the maximum allowable working pressure does not exceed one fourth of the burst pressure or produce a primary stress greater than one fourth of the ultimate tensile strength of the material for Class II systems and for all Class I, I-L, and II-L systems receiving ship motion dynamic analysis and nondestructive examination. For Class I, I-L, or II-L systems not receiving ship motion dynamic analysis and nondestructive examination under § 56.07-10(c), the maximum allowable working pressure must not exceed one fifth of the burst pressure or produce a primary stress greater than one fifth of the ultimate tensile strength of the material.

The maximum allowable working pressure may be determined by—

(A) Calculations comparable to those of ANSI B31.1 or Section VIII of the ASME Code;

(B) Subjecting a representative model to a proof test or experimental stress analysis described in paragraph A-22 of Section I of the ASME Code; or

(C) Other means specifically accepted by the Commandant (G-MTH).

(iii) Nonstandard fluid conditioner fittings must be tested in accordance with § 56.97-5.

(iv) If welded, nonstandard fluid conditioner fittings must be welded in accordance with Subpart 56.70 of this part and Part 57 of this chapter or by other processes specifically accepted by the Commandant (G-MTH).

(d) All fluid conditioner fittings that contain hazardous materials as defined in § 150.115 of this subchapter must meet the applicable requirements of Part 54 of this chapter, except Subpart 54.10.

(e) Heat exchangers having headers and tubes and brazed boiler steam air heaters are not considered fluid conditioner fittings and must meet the requirements in Part 54 of this chapter regardless of size. For brazed boiler steam air heaters, see also § 56.30-30(b)(1).

§ 56.15-10 Special purpose fittings.

(a) Manufacturers of special purpose fittings may obtain acceptance of their fittings by following Part 50, Subpart 50.25 of this chapter.

(b) Special purpose fittings made in accordance with the applicable standards listed in Table 56.60-1(b) of § 56.60-1 and of materials complying with Subpart 56.60 of this part, may be used within the material, size, pressure, and temperature limitations of those standards and within any further limitations specified in this subchapter.

(c) Nonstandard special purpose fittings must meet the requirements of §§ 56.30-25, 56.30-40, 56.35-10, 56.35-15, or 56.35-35, as applicable.

20. Section 56.20-1 is revised to read as follows:

§ 56.20-1 General.

(a) Manufacturers of valves may obtain acceptance of their valves by following Part 50, Subpart 50.25 of this chapter.

(b) Non-welded valves complying with the standards listed in § 56.60-1 may be used within the specified pressure and temperature ratings of those standards, provided the limitations of § 56.07-10(c) are applied. Materials must comply with Subpart 56.60 of this part. Welded valves complying with the standards and specifications listed in § 56.60-1 may be

used in Class II systems only if they meet paragraph (c) of this section.

(c) All other valves must meet the following:

(1) All pressure-containing materials must be accepted in accordance with § 56.60-1.

(2) Valves must be designed so that the maximum allowable working pressure does not exceed one fourth of the burst pressure or produce a primary stress greater than one fourth of the ultimate tensile strength of the material for Class II systems and for all Class I, I-L, and II-L systems receiving ship motion dynamic analysis and nondestructive examination. For Class I, I-L, or II-L systems not receiving ship motion dynamic analysis and nondestructive examination under § 56.07-10(c), the maximum allowable working pressure must not exceed one fifth of the burst pressure or produce a primary stress greater than one fifth of the ultimate tensile strength of the material. The maximum allowable working pressure may be determined by—

(i) Calculations comparable to those of ANSI B31.1 or Section VIII of the ASME Code, if the valve shape permits this;

(ii) Subjecting a representative model to a proof test or experimental stress analysis described in paragraph A-22 of Section I of the ASME Code; or

(iii) Other means specifically accepted by the Commandant (G-MTH).

(3) Valves must be tested in accordance with § 56.97-5.

(4) If welded, valves must be welded in accordance with Subpart 56.70 of this part and Part 57 of this chapter or by other processes specifically accepted by the Commandant (G-MTH).

(d) Where liquid trapped in any closed valve can be heated and an uncontrollable rise in pressure can result, means must be provided in the design, installation, and operation of the valve to ensure that the pressure in the valve does not exceed that allowed by this part for the attained temperature. (For example, if a flexible wedge gate valve with the stem installed horizontally is closed, liquid from testing, cleaning, or condensation can be trapped in the bonnet section of the closed valve.) Any resulting penetration of the pressure wall of the valve must meet the requirements of this part and those for threaded and welded auxiliary connections in ANSI B16.34.

21. In § 56.20-15, paragraph (b)(2)(ii) is revised to read as follows:

§ 56.20-15 Valves employing resilient material.

(b) * * *

(2) * * *

(i) Category B valves may be used in any piping system, except in any location in a fixed fire extinguishing system or bilge system; as the positive closure for any opening in the shell of a vessel; in a position in which the valve serves as the positive shutoff valve required by § 56.50-60(d) for systems subject to internal head pressure from tanks containing flammable, combustible, or hazardous materials; or as otherwise prohibited under this subchapter.

22. Section 56.25-5 is revised to read as follows:

§ 56.25-5 Flanges.

Flanges must conform to the design requirements of the applicable standards of Table 56.60-1(b) of § 56.60-1 or Appendix 2 of Section VIII of the ASME Code. Plate flanges must meet the requirements of § 56.30-10(b)(5) and the material requirements of § 56.60-1(a). Flanges may be integral or may be attached to pipe by threading, welding, brazing, or other means within the applicable standards specified in Table 56.60-1(b) of § 56.60-1 and the requirements of this subpart. For flange facing gasket combinations other than those specified above, calculations must be submitted indicating that the gaskets will not result in a higher bolt loading or flange moment than for the acceptable configurations.

23. In § 56.25-10, paragraph (b) is revised to read as follows:

§ 56.25-10 Flange facings.

* * * * *

(b) When bolting class 150 standard steel flanges to flat face cast iron flanges, the steel flange must be furnished with a flat face, and bolting must be in accordance with § 56.25-20. Class 300 raised face steel flanges may be bolted to class 250 raised face cast iron flanges with bolting in accordance with § 56.25-20(b).

24. In § 56.25-20, paragraphs (a)(1), (a)(3), and the last sentence of paragraph (b) are revised to read as follows:

§ 56.25-20 Bolting.

(a) *General.* (1) Bolts, studs, nuts, and washers must comply with applicable standards and specifications listed in § 56.60-1. Unless otherwise specified, bolting must be in accordance with ANSI B16.5.

* * * * *

(3) See § 56.30-15(c) of this chapter for exceptions on bolting used in fluid power and control systems.

(b) * * * When class 250 cast iron flanges are used or when class 125 cast iron flanges are used with ring gaskets, the bolting material must be carbon steel conforming to ASTM Specification A307, Grade B.

* * * * *

25. In § 56.30-5, paragraphs (b)(3), (c), and (d) are revised to read as follows:

§ 56.30-5 Welded joints.

* * * * *

(b) * * *

(3) Consumable insert rings must be used. Commonly used types of butt welding end preparations are shown in ANSI B16.25.

* * * * *

(c) *Socket welds (modifies 127.3.3A).*

(1) Socket welds must conform to ANSI B16.11, applicable standards listed in Table 56.60-1(b) of § 56.60-1(b), and Figure 127.4.4C in ANSI B31.1 as modified by § 56.30-10 (b)(4) through (b)(6). A gap of approximately one-sixteenth inch between the end of the pipe and the bottom of the socket must be provided before welding. This may best be provided by bottoming the pipe and backing off slightly before tacking.

(2) Socket welds must not be used where severe erosion or crevice corrosion is expected to occur. Restrictions on the use of socket welds appear in § 56.70-15(d)(3) for Class I service and in § 56.50-105 for low temperature service. These sections should be checked when designing for these systems. See § 56.70-15(d)(4) for Class II service.

(3) (Reproduces 111.3.4.) Drains and bypasses may be attached to a valve or fitting by socket welding provided the socket depth, bore diameter, and shoulder thickness conform to ANSI B16.11.

(d) *Fillet welds.* Fillet welds may vary from convex to concave. The size of a fillet weld is determined as shown in Figure 127.4.4A of ANSI B31.1. Fillet weld details for socket/welding components must meet § 56.30-5(c). Fillet weld details for flanges must meet § 56.30-10. See also § 56.70-15(d)(3) and (d)(4) for applications of fillet welds.

* * * * *

26. In § 56.30-10, "USA Standard" in the introductory text of paragraph (b) is revised to read "American National Standard" and paragraphs (b)(1) through (b)(5) are revised to read as follows:

§ 56.30-10 Flanged joints (modifies 104.5.1(a)).

* * * * *

(b) * * *

(1) *Figure 56.30-10(b), Method 1.* Flanges with screw threads may be used

in accordance with Table 56.30-20(c) of § 56.30-20.

(2) *Figure 56.30-10(b), Method 2.* ANSI B16.5 class 150 and class 300 low-hubbed flanges with screw threads, plus the addition of a strength fillet weld of the size as shown, may be used in Class I systems not exceeding 750 °F or 4 NPS, in Class II systems without diameter limitations, and in Class II-L systems not exceeding 1 NPS. If 100 percent radiography is required by § 56.95-10 for the class, diameter, wall thickness, and material of the pipe being joined, the use of threaded flanges is not permitted and butt welding flanges must be provided. For Class II piping systems, the size of the strength fillet may be limited to a maximum of 0.525 inch instead of 1.4T.

(3) *Figure 56.30-10(b), Method 3.* ANSI B16.5 slip-on flanges may be used in Class I, Class II, or Class II-L systems not to exceed the service pressure-temperature ratings for the class 300 and lower class flanges, within the temperature limitations of the material selected for use, and not to exceed 4 NPS in Class I and Class II-L systems. If 100 percent radiography is required by § 56.95-10 for the class, diameter, wall thickness, and material of the pipe being joined, the use of slip-on flanges is not permitted and a butt welding flange must be provided. The configuration in Figure 127.4.4B(b) of ANSI B31.1 utilizing a face and backweld may be preferable in those applications where it is desirable to eliminate void spaces. For Class II piping systems, the size of the strength fillet may be limited to a maximum of 0.525 inch instead of 1.4T and the distance from the face of flange to the end of the pipe may be a maximum of three-eighths inch. Restrictions on the use of slip-on flanges appear in § 56.50-105 for low temperature piping systems.

(4) *Figure 56.30-10(b), Method 4.* ANSI B16.5 socket welding flanges may be used in Class I, II, or II-L systems not exceeding 3 NPS for class 600 and lower class flanges and 2½ NPS for class 900 and class 1500 flanges within the service pressure-temperature ratings of the standard. Whenever full radiography is required by § 56.95-10 for the class, diameter, and wall thickness of the pipe being joined, the use of socket welding flanges is not permitted and a butt weld type connection must be provided. For Class II piping, socket welding flanges may be used without diameter limitation, and the size of the fillet weld may be limited to a maximum of 0.525 inch instead of 1.4T. Restrictions on the use of socket welds appear in § 56.50-105 for low temperature piping systems.

(5) *Figure 56.30-10(b), Method 5.* Flanges fabricated from steel plate meeting the requirements of Part 54 of this chapter may be used for Class II piping for pressures not exceeding 150 pounds per square inch and temperatures not exceeding 450 °F. Plate material listed in USC-6(b) of Section VIII of the ASME Code may not be used in this application, except that material meeting ASTM Specification A36 may be used. The fabricated flanges must conform at least to the American National Standard class 150 flange dimensions. The size of the strength fillet weld may be limited to a maximum of 0.525 inches instead of 1.4T and the distance from the face of the flange to the end of the pipe may be a maximum of three-eighths inch.

§ 56.30-20 [Amended]

27. In § 56.30-20, "Table 126.1 of ANSI-B31.1" in paragraph (b) is revised to read "Table 56.60-1(b) of § 56.60-1", "and nuclear" in paragraph (d) and note 1 of Table 56.30-20(c) is removed, and Table 56.30-20(c) is relocated after paragraph (c).

28. In § 56.30-25, paragraphs (a), (d), and (f)(2) are revised to read as follows:

§ 56.30-25 Flared, flareless, and compression joints.

(a) Flared, flareless, and compression type tubing fittings may be used for tube sizes not exceeding 2-inch outside diameter within the limitations of applicable standards and specifications listed in § 56.60-1 and of this section.

(d) Threads must be either American National Standard taper pipe threads or Dryseal American National Standard taper pipe threads. Threads other than taper pipe threads may be used for piping components where tightness of the joint depends on a seating surface other than the threads and where experience or testing has demonstrated that the threads are suitable.

(f) (2) Grip-type fittings that are tightened in accordance with the manufacturers' instructions need not be disassembled for checking. For fluid services (other than hydraulic systems) using a combustible fluid as defined in § 30.10-15 of this chapter and for fluid services using a flammable fluid as defined in § 30.10-22 of this chapter, flared fittings must be used; except that, flareless fittings of the nonbite type may be used when the tubing system is of steel, nickel copper, or copper nickel alloy. When using copper or copper zinc

alloys, flared fittings are required. See also § 56.50-70 for gasoline fuel systems and § 56.50-75 for diesel fuel systems. In the case of hydraulic systems, flareless fittings of the bite type may be used where experience or testing has demonstrated that the fittings are suitable.

29. Section 56.30-27 is revised to read as follows:

§ 56.30-37 Caulked joints.

Caulked joints may not be used in marine installations.

30. In § 56.30-40, paragraph (e) is revised to read as follows and, in the last sentence of paragraph (f), the word "screwed" revised to read "threaded":

§ 56.30-40 Flexible pipe couplings of the compression or slip-on type.

(e) Flexible couplings made in accordance with the applicable standards listed in Table 56.60-1(b) of § 56.60-1(b) and of materials complying with Subpart 56.60 of this part may be used within the material, size, pressure, and temperature limitations of those standards and within any further limitations specified in this subchapter. Flexible couplings fabricated by welding must also comply with Part 57 of this chapter.

§ 56.35-1 [Amended]

31. In § 56.35-1, "and for the primary piping of nuclear power systems" in paragraph (a) is removed.

32. Section 56.35-10 is revised to read as follows:

§ 56.35-10 Nonmetallic expansion joints (replaces 199.5.1).

(a) Manufacturers of nonmetallic expansion joints may obtain acceptance of their expansion joints by following Part 50, Subpart 50.25 of this chapter.

(b) Nonmetallic expansion joints must conform to the standards listed in Table 56.60-1(b) of § 56.60-1(b). Nonmetallic expansion joints may be used within their specified pressure and temperature rating in vital and nonvital machinery sea connections inboard of the skin valve. These joints must not be used to correct for improper piping workmanship or misalignment. Joint movements must not exceed the limits set by the joint manufacturer.

33. Section 56.35-15 is revised to read as follows:

§ 56.35-15 Metallic expansion joints (replaces 119.5.1).

Metallic expansion joints must conform to the standards listed in Table 56.60-1(b) of § 56.60-1(b) and may be

used within their specified pressure and temperature rating. Manufacturers of metallic expansion joints may obtain acceptance of their expansion joints by following Part 50, Subpart 50.25 of this chapter.

34. In § 56.50-50, paragraph (k) is revised to read as follows:

§ 56.50-50 Bilge and ballast piping.

(k) Where bilge and ballast piping is led through tanks, except ballast piping in ballast tanks, means must be provided to prevent the flooding of other spaces in the event of pipe leakage within the tanks. The piping may be in an oiltight or watertight pipe tunnel, may be of Schedule 80 pipe wall thickness fitted with expansion bends with all joints within the tanks welded, or may be installed using other designs acceptable to the Commandant. Where a pipe tunnel is installed, the watertight integrity of the bulkheads must be maintained and, if the pipe tunnel is not of sufficient size to afford easy access, no valve or fitting must be located within the tunnel. These requirements need not be met provided the contents of the tank and piping system are compatible and provided strength and stability calculations show that crossflooding resulting from a pipe leak between the tank and the spaces through which the piping passes will not seriously affect the safety of the ship, including the launching of lifeboats due to the ship's listing. Bilge lines led through tanks without a pipe tunnel must be fitted with nonreturn valves at the bilge suctions.

35. In § 56.50-55, paragraph (c) is revised to read as follows:

§ 56.50-55 Bilge pumps.

(c) *Capacity of independent power bilge pump.* Each power bilge pump must have the capacity to develop a suction velocity of not less than 400 feet per minute through the size of bilge main piping required by § 56.50-50(d)(1) under ordinary conditions; except that, for vessels of less than 65 feet in length not engaged on international voyages, the pump must have a minimum capacity of 25 gallons per minute and need not meet the velocity requirement of this paragraph.

36. In § 56.50-60, paragraphs (d)(3) introductory text and (d)(3)(i) are revised to read as follows:

§ 56.50-60 Cargo oil systems and fuel oil systems for boilers and internal combustion engines; transfer systems; and general arrangements.

* * *

(3) Power operated valves installed to comply with the requirements of this paragraph must meet the following requirements:

(i) Valve actuators must be capable of closing the valves under all conditions, except during physical interruption of the power system (e.g. cable breakage or tube rupture). Fluid power actuated valves, other than those opened against spring pressure, must be provided with an energy storage system which is protected from fire and collision, as far as practicable. The storage system must be used for no other purpose and must have sufficient capacity to cycle all connected valves from the initial valve position to the opposite position and return. The cross connection of this system to an alternate power supply will be given consideration by the Commandant.

* * *

§ 56.50-65 [Amended]

37. In § 56.50-65, "propulsion" is removed from paragraph (b)(1) and "screwed-bonnet" in paragraph (d) is revised to read "threaded-bonnet".

38. In § 56.50-85, the introductory text of paragraph (a) and paragraphs (a)(4) and (a)(5) are revised, paragraph (a)(4-a) is removed, existing paragraphs (a)(6) through (a)(12) are redesignated as paragraphs (a)(7) through (a)(13), and new paragraph's (a)(6) and (b) are added to read as follows:

§ 56.50-85 Tank vent piping.

(a) This section applies to vents for all independent, fixed, non-pressure tanks or containers or for spaces in which liquids, such as fuel, ship's stores, cargo, or ballast, are carried.

* * *

(4) Tank vents must extend above the weather deck, except vents from fresh water tanks, bilge oily-water holding tanks, bilge slop tanks, and tanks containing Grade E combustible liquids, such as lubricating oil, may terminate in the machinery space, provided—

(i) The vents are arranged to prevent overflow on machinery, electrical equipment, and hot surfaces;

(ii) Tanks containing combustible liquids are not heated; and

(iii) The vents terminate above the deep load waterline if the tanks have boundaries in common with the hull.

(5) Vents from oil tanks must terminate not less than three feet from any opening into living quarters.

(6) Vents extending above the freeboard deck or superstructure deck from fuel oil and other tanks must be at least Schedule 40 in wall thickness.

Except for barges in inland service and for Great Lakes vessels, the height from the deck to any point where water may gain access through the vent to below deck must be at least 30 inches on the freeboard deck and 17½ inches on the superstructure deck. On Great Lakes vessels, the height from the deck to any point where water may gain access through the vent to below deck must be at least 30 inches on the freeboard deck, 24 inches on the raised quarterdeck, and 12 inches on other superstructure decks. Where the height of vents on Great Lakes vessels may interfere with the working of the vessel, a lower height may be accepted by the Commandant provided the vent cap is properly protected from mechanical damage. For barges in inland service, the vents must extend at least six inches above the deck. A lesser amount may be accepted by the Commandant if evidence is provided that a particular vent has proven satisfactory in service.

* * *

(b) Tank vents must remain within the watertight subdivision boundaries in which the tanks they vent are located. Where the structural configuration of a vessel makes meeting this requirement impracticable, the Commandant may permit a tank vent to penetrate a watertight subdivision bulkhead. All tank vents which penetrate watertight subdivision bulkheads must terminate above the weather deck.

39. In § 56.50-96, paragraph (a)(2)(iv) is revised to read as follows:

§ 56.50-96 Keel cooler installations.

(a) * * *

(2) * * *

(iv) The forward end of the structure must be faired to the hull such that the horizontal length of the fairing is no less than four times the height of the structure.

40. In § 56.60-1, the section heading, paragraph (b), the table heading, headnote and note 16 to Table 56.60-1(a), and the heading, footnote 2 and table entries to Table 56.60-1(b) are revised to read as follows; and, in Table 56.60-1(b), ANSI standard B2.2 and MSS standards SP-37, SP-42, and SP-66 are removed and ANSI standards B1.20.3, B16.34 and B16.42, ASTM standards F682-82a, F1006-86, F1007-86, and F1020-86, and footnotes 3 and 4 are added to read as follows:

§ 56.60-1 Acceptable materials and specifications (replaces 123 and Table 126.1 in ANSI B31.1).

(b) Components made in accordance with the commercial standards listed in Table 56.60-1(b) and made of materials complying with § 56.60-1(a) of this chapter may be used in piping systems within the limitations of the standards and within any further limitations specified in this subchapter.

Table 56.60-1(a)—Adopted Specifications and Standards (Replaces Table 126.1).

Note: Table 56.60-1(a) identifies the acceptable pipe, tubing, and fitting specifications intended for piping system use and replaces Table 126.1 in ANSI B31.1. Piping system applications will be considered if certification of mechanical properties is furnished. Without this certification, use is limited to applications inside heat exchangers that insure containment of the material inside a pressure shell.

Note: * * *

¹⁶ Copper pipe must not be used for hot oil systems except for short flexible connections at burners. Copper pipe must be annealed before installation in Class I piping systems. See also §§ 56.10-5(c) and 56.60-20.

TABLE 56.60-1(B)—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS

[Replaces table 126.1]

ANSI Standards (American National Standards Institute), 1430 Broadway, New York, NY 10018

- B1.20.3 Dryseal Pipe Threads.
- B16.1 C.I. Flanges and Fittings—Classes 125 and 250 Only.
- B16.3 M.I. Threaded Fittings—Classes 150 and 300.
- B16.4 C.I. Threaded Fittings—Classes 125 and 250.
- B16.5 Steel Pipe Flanges and Flanged Fittings.³
- B16.9 Steel Butt welding Fittings.³

TABLE 56.60-1(B)—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS

[Replaces table 126.1]

- B16.14 Ferrous Threaded Plugs, Bushings and Locknuts.⁴
- B16.15 Cast Bronze Threaded Fittings—Classes 125 & 250.⁴
- B16.18 Cast Brass Solder Joints.*
- B16.22 Wrought Copper and Bronze Solder Joint Fittings.*
- B16.23 Cast Bronze Solder-Joint Drainage Fittings.*
- B16.24 Brass or Bronze Flanges and Fittings—Classes 150 and 300.³
- B16.28 Wrought Steel Butt welding Short Radius Elbows and Returns.*
- B16.29 Wrought Copper and Wrought-Copper Alloy Solder Joint Drainage Fittings.*
- B16.34 Valves—Flanged and Butt welding End.³
- B16.42 Ductile Iron Pipe Flanges and Fittings.*

ASTM Standards (American Society for Testing and Materials), 1916 Race St., Philadelphia, PA 19103

- F682-82a.. Wrought Carbon Steel Sleeve-Type Couplings.
- F1006-86.. Entrainment Separators for Use in Marine Piping Applications.*
- F1007-86.. Pipe Line Expansion Joints of the Packed Slip Type for Marine Applications.
- F1020-86.. Line Blind Valves for Marine Applications.*
- F1120-87.. Standard Specification for Circular Metallic Bellows Type Expansion Joints.
- F1123-87.. Standard Specification for Non-Metallic Expansion Joints.

FCI Standards (Fluid Controls Institute, Inc.), 31 South Street, Suite 303, Morristown, NJ 07960

- FCI 69-1... Pressure Rating Standard for Steam Traps.*

MSS Standards (Manufacturers' Standardization Society of the Valve and Fittings Industry), 127 Park Street NE, Vienna, VA 22118

- SP-25 Standard Marking System for Valves, Fittings, Flanges and Unions.
- SP-44 Steel Pipe Line Flanges.*
- SP-51 Class 150LW Corrosion Resistant Cast Flanges and Flanged Fittings.*
- SP-67 Butterfly Valves.³⁴
- SP-72 Ball Valves with Flanged or Butt-Welding Ends for General Service.*

TABLE 56.60-1(B)—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS

[Replaces table 126.1]

- SP-83 Carbon Steel Pipe Unions Socket-Welding and Threaded.

¹ [Removed and Reserved]

² In addition, for bronze valves, adequacy of body shell thickness shall be satisfactory to the Commandant, and refer to § 56.60-10 for cast iron valves.

³ Mill or manufacturer's certification is not required, except where a needed portion of the required marking is deleted due to size or is absent due to age of existing stocks.

⁴ Because this standard offers the option of several materials, some of which are not generally acceptable to the Coast Guard, compliance with the standard does not necessarily indicate compliance with these regulations. The marking on the component or the manufacturer or mill certificate must indicate the material specification and/or grade as necessary to fully identify the materials used. The material must comply with the requirements in this subchapter relating to the particular application.

§ 56.60-2 [Amended]

41. In § 56.60-2, "ATMS B154" in footnote 9 to Table 56.60-2(a) is revised to read "ASTM B154".

42. In § 56.60-10, paragraph (a) is revised to read as follows:

§ 56.60-10 Cast iron and malleable iron.

(a) The low ductility of cast iron and malleable iron should be recognized and the use of these metals where shock loading may occur should be avoided. Cast iron and malleable iron fittings conforming to the specifications of Table 56.60-1(a) of § 56.60-1 may be used at pressures not exceeding the limits of the applicable standards of Table 56.60-1(b) of § 56.60-1 at temperatures not exceeding 450°F. Valves of either of these materials may be used if they conform to the standards for class 125 and class 250 flanges and flanged fittings in ANSI B16.1 and if their service does not exceed the rating as marked on the valve.

* * * * *

43. Section 56.60-15 is revised to read as follows:

§ 56.60-15 Ductile iron.

(a) Ductile cast iron components made of material conforming to ASTM A395 may be used within the service restrictions and pressure-temperature limitations of UCD-3 of Section VIII of the ASME Code.

(b) Ductile iron castings may be used in hydraulic systems at pressures in excess of 1000 psi, provided:

(1) The castings receive a ferritizing anneal when the as cast thickness does not exceed one inch;

(2) Large castings for components, such as hydraulic cylinders, are examined as specified for a casting quality factor of 90 percent in accordance with UG-24 of Section VIII of the ASME Code; and

(3) The castings are not welded, brazed, plugged, or otherwise repaired.

(c) Ductile iron castings must be hydrostatically tested after machining to twice their maximum allowable working pressure and must show no leaks.

44. In § 56.60-25, paragraphs (a)(7)(i)(a), (a)(7)(i)(b), (a)(10)(c)(5) are revised to read as follows, "machine survey" in paragraph (b)(1) is revised to read "machinery served", paragraph (e) is removed, and paragraph (f) is redesignated as paragraph (e):

§ 56.60-25 Nonmetallic materials.

(a) * * *

(7) * * *

(i) * * *

(A) Pipe (PVC).

ASTM D1785 (Schedule 40, 80, 120).

ASTM D2241 (Standard Dimension Ratio).

ASTM D2665.

(B) Fittings (PVC).

ASTM D2464 (Schedule 80 threaded).

ASTM D2466 (Schedule 40 socket).

ASTM D2467 (Schedule 80 socket).

ASTM D2665.

(10) Materials, such as glass reinforced resins or other plastics, may be authorized by the Commandant if full mechanical and physical properties and chemical description are furnished. Flammability of the material must be determined by standard test methods ASTM D635 and ASTM D2863. The average extent of burning must be less than 10 mm, the average time of burning must be less than 50 seconds, and the limiting oxygen index must be greater than 21.

* * * *

(c) * * *

(5) Nonmetallic hose must be complete with factory-assembled end fittings requiring no further adjustment of the fittings on the hose, except that field attachable type fittings may be used. Hose end fittings must comply with SAE J1475 (Hydraulic Hose Fittings

For Marine Applications). Field attachable fitting must be installed following the manufacturer's recommended practice (method). If special equipment is required, such as crimping machines, it must be of the type and design specified by the manufacturer. A hydrostatic test of each hose assembly must be conducted in accordance with § 56.97-5.

* * * *

45. In § 56.70-10, the heading and paragraph (b) are revised to read as follows:

§ 56.70-10 Preparation (modifies 127.3).

* * * *

(b) *Fillet welds (modifies 127.3.2)*. In making fillet welds, the weld metal must be deposited in such a way as to obtain adequate penetration into the base metal at the root of the weld. Piping components which are to be joined utilizing fillet welds must be prepared in accordance with applicable provisions and requirements of this section. For typical details, see Figures 127.4.4A and 127.4.4C of ANSI B31.1 and Figure 56.30-10(b) of § 56.30-10. See § 56.30-5(d) for additional requirements.

46. In § 56.70-15, "(Reproduce 127.4(cc))" in paragraph (b)(5) is revised to read "(Reproduces 127.2(c))", "Table 126.1 of ANSI-B31.1 and" in paragraph (c) is removed, and paragraph (d) is revised to read as follows:

§ 56.70-15 Procedure.

* * * *

(d) *Fillet welds*. (1) Fillet welds may vary from convex to concave. The size of a fillet weld is determined as shown in Figure 127.4.4A in ANSI B31.1. Fillet weld details for socket-welding components must meet § 56.30-5(c). Fillet weld details for flanges must meet § 56.30-10.

(2) The limitations on cracks and undercutting set forth in paragraph (b)(8) of this section for girth welds are also applicable to fillet welds.

(3) Class I piping not exceeding 3 NPS and not subject to full radiography by § 56.95-10 may be joined by sleeves fitted over pipe ends or by socket type joints. Where full radiography is required, only butt type joints may be used. The inside diameter of the sleeve must not exceed the outside diameter of

the pipe or tube by more than 0.080 inch. Fit between socket and pipe must conform to applicable standards for socket weld fittings. Depth of insertion of pipe or tube within the socket or sleeve must not be less than three-eighths inch. The fillet weld must be deposited in a minimum of two passes, unless specifically approved otherwise in a special procedure qualification. Requirements for joints employing socket weld and slip-on flanges are in § 56.30-10.

(4) Sleeve and socket type joints may be used in Class II piping systems without restriction as to size of pipe or tubing joined. Applicable standards must be followed on fit. The fillet welds must be deposited in a minimum of two passes, unless specifically approved otherwise in a special procedure qualification. Requirements for joints employing socket weld and slip-on flanges are in § 56.30-10.

PART 61—PERIODIC TESTS AND INSPECTIONS

47. The authority citation for Part 61 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

48. A new § 61.15-12 is added to read as follows:

§ 61.15-12 Expansion joints.

(a) Expansion joints must be examined at each inspection for certification for signs of excessive wear, fatigue, deterioration, physical damage, misalignment, improper flange-to-flange spacing, and leakage.

(b) A nonmetallic expansion joint must be replaced ten years after its date of manufacture if it is located in a system which penetrates the vessel's side and both the penetration and the nonmetallic expansion joint are located below the deepest load waterline.

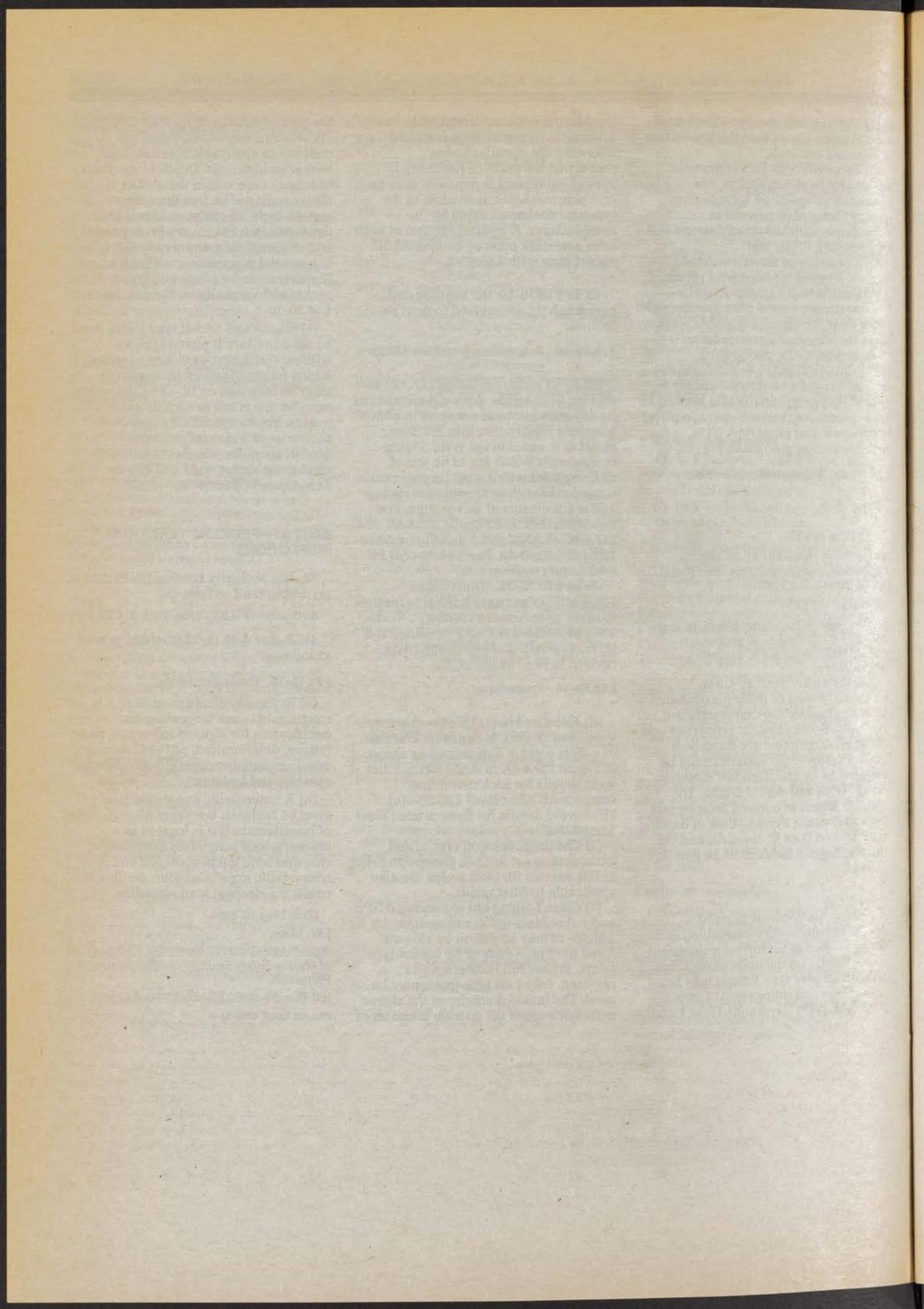
Date: May 10, 1988.

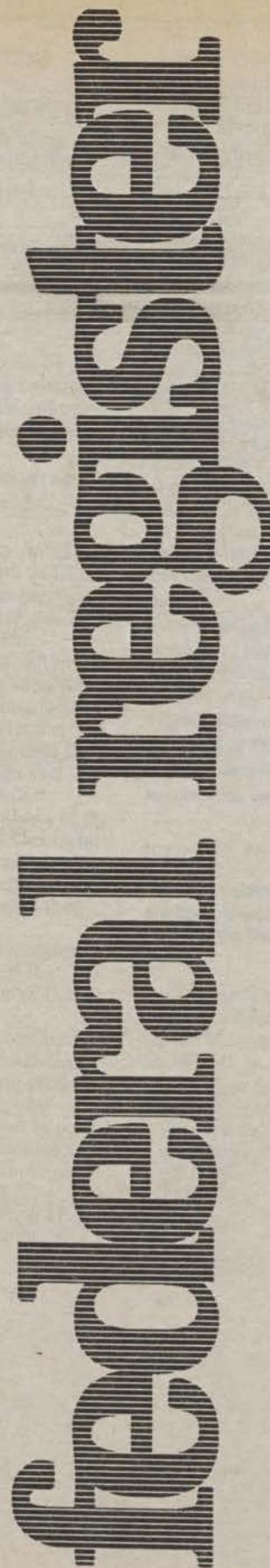
J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 88-10952 Filed 5-17-88; 8:45 am]

BILLING CODE 4910-14-M





Wednesday
May 18, 1988

Part VII

**Department of
Education**

Law-Related Education Program; Notices

Part AII

Development of Education

Trans-Grecian Education Board, Inc.

DEPARTMENT OF EDUCATION**Law-Related Education Program****AGENCY:** Department of Education.**ACTION:** Notice of proposed funding priority under the Law-Related Education Program.**SUMMARY:** The Secretary proposes a funding priority for the Law-Related Education Program.**DATE:** Comments must be received on or before June 17, 1988.**ADDRESS:** All comments should be addressed to Secretary's Discretionary Fund, U.S. Department of Education, 400 Maryland Avenue SW., Room 4132, Washington, DC 20202.**FOR FURTHER INFORMATION CONTACT:**
Secretary's Discretionary Fund.
Telephone (202) 732-3566.

Proposed Absolute Priority for Fiscal Year 1988: In accordance with 34 CFR 75.105 (b) and (c)(3), the Secretary has chosen as an absolute priority civics-related projects focusing on the bicentennial of the U.S. Constitution. Only applications proposing activities under this priority will be considered.

Within this absolute priority, the Secretary encourages applications that will lead to greater knowledge and understanding of "The Federalist Papers," an authoritative analysis of the U.S. Constitution written by Alexander Hamilton, James Madison and John Jay.

The Secretary is particularly interested in supporting projects that will:

- Implement alternative strategies to use "The Federalist Papers" in the national celebration activities of the U.S. Constitution.
- Involve creative use of community resources, including eminent scholars and professionals, to stimulate student interest in and understanding and appreciation of "The Federalist Papers."
- Improve teacher qualifications and skills fostering substantive knowledge about "The Federalist Papers."
- Demonstrate the importance of "The Federalist Papers" to students in a

manner that reflects the fundamental principles underlying the U.S. Constitution.

The above examples of ways to implement the absolute priority are only suggestions. Applicants are encouraged to propose activities other than these examples.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed absolute priority.

All comments will be available for public inspection, during and after the comment period, in Room 4132, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Applicable Regulations: (a) The Law-Related Education Program regulations, 34 CFR Part 241; and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78 and 79.

Program authority: 20 U.S.C. 3851.

(Catalog of Federal Domestic Assistance No. 84.123, Law-Related Education Program)

Dated: April 22, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88-11097 Filed 5-17-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA NO. 84.123B]**Notice Inviting Applications for New Awards Under the Law-Related Education Program for Fiscal Year 1988**

Purpose: To invite applications to conduct civics-related projects focusing on the bicentennial of the U.S. Constitution.

Deadline for Transmittal of Applications: July 5, 1988.

Applications Available: May 25, 1988.

Available Funds: \$900,000.

Estimated Range of Awards: \$10,000 - \$75,000.

Estimated Average Size of Awards: \$36,500.

Estimated Number of Awards: 25.

Project Period: 12 Months.

Priority: The Secretary has proposed in a notice in this issue of the **Federal Register**, an absolute priority for projects to conduct civics-related projects focusing on the bicentennial of the U.S. Constitution. Subject to the Secretary's adoption of a final priority after consideration of public comments, applications must meet the proposed absolute priority in order to be eligible to be considered for an award.

Important Note to Applicants:

Applicants should note that a notice announcing a separate grant competition for law-related education projects was published in the **Federal Register** on November 5, 1987 (52 FR 42471). Applications under both competitions will be carefully reviewed to ensure that no grantee receives duplicative Federal funding.

Applicable Regulations: (a) The Law-Related Education Program regulations, 34 CFR Part 241; (b) when adopted in final form, the Notice of Proposed Funding Priorities under the Law-Related Education Program published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priority. If there are any substantive changes made in the proposed priority when it is published in final form, applicants will be given the opportunity to amend or resubmit their applications; and (c) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or Information Contact: Secretary's Discretionary Fund,

U.S. Department of Education, 400 Maryland Avenue SW. Room 4132, Washington, DC 20202. Telephone (202) 732-3566.

Program Authority: 20 U.S.C. 3851.

Dated: April 22, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88-11098 Filed 5-17-88; 8:45 am]

BILLING CODE 4000-01-M

the same time, the number of individuals in each group was increased. This was done by adding a small amount of water to each group's container. The water was added slowly to prevent any sudden changes in the environment. The experiment was conducted for a total of 10 minutes. During this time, the number of individuals in each group was recorded every 2 minutes. The results showed that the number of individuals in each group increased over time. The final count for each group was as follows: Group A (control) had 10 individuals, Group B (water addition) had 12 individuals, and Group C (water addition) had 14 individuals. These results suggest that water addition can increase the number of individuals in a group.



Wednesday
May 18, 1988

Part VIII

**Department of
Commerce**

**National Oceanic and Atmospheric
Administration**

50 CFR Part 216

**North Pacific Fur Seal; Pribilof Island
Population, Designation as Depleted;
Final Rule**

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 216**

[Docket No. 50219-8058]

North Pacific Fur Seal; Pribilof Island Population; Designation as Depleted**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.**ACTION:** Final rule.

SUMMARY: The NMFS is designating the Pribilof Island population of North Pacific fur seals as depleted under the Marine Mammal Protection Act (MMPA). This action is required by the MMPA when a species or population stock falls below its optimum sustainable population (OSP). Since the current Pribilof Island population of North Pacific fur seals is below 50 percent of the population levels observed in the 1940s and early 1950s, this population is below the level which can maintain maximum net productivity, the lower bound of the OSP range. Once a population stock is designated as depleted, the MMPA requires the application of certain additional restrictions on taking and importation.

EFFECTIVE DATE: June 17, 1988.**FOR FURTHER INFORMATION CONTACT:** Georgia Cranmore, 202-673-5351.**SUPPLEMENTARY INFORMATION:****Background**

A Status Review of the North Pacific Fur Seal (*Callorhinus ursinus*) on the Pribilof Islands, Alaska, was prepared in response to a petition by the Humane Society of the United States to add the North Pacific fur seal to the U.S. List of Endangered and Threatened Wildlife, under the Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531-1543. A notice of the NMFS determination not to list the fur seal as a threatened species, incorporating the complete text of the Status Review for the Pribilof Island population, was published in the **Federal Register** on March 6, 1985 (50 FR 9232). The denial of the ESA petition was based on a number of factors, including the size of the species' population. However, conclusions regarding the status of the Pribilof Island population indicated that it was below 50 percent of its carrying capacity based on a comparison of current population levels and those observed in the 1940s and early 1950s.

Carrying capacity is the number of animals that a given ecosystem can support in terms of food availability,

space requirements, and other factors. Carrying capacity can change if one or more of the environmental factors on which the population depends also changes. In the case of the Pribilof Island population of North Pacific fur seals, however, the Status Review concludes that the carrying capacity of the Bering Sea and North Pacific Ocean for fur seals has probably not changed significantly since peak numbers of animals were observed during the 1940s-1950s.

Carrying capacity is the upper bound of a range of population levels known as Optimum Sustainable Population (OSP). When consistent with its objective of maintaining the health and stability of the marine environment, the goal of the Marine Mammal Protection Act of 1972 (MMPA), 16 U.S.C. 1361-1407, is the maintenance of OSP for marine mammals. OSP as defined at 50 CFR 216.3 is a range of population levels from the largest supportable within the ecosystem (carrying capacity) to the population level that results in maximum net productivity (MNP). MNP is the greatest net annual increment in population numbers or biomass resulting from additions to be population due to reproduction and growth, less losses due to natural mortality (see 41 FR 55536, December 21, 1976).

The Status Review found that the population size of North Pacific fur seals at which maximum productivity would occur is at least 60 percent of the carrying capacity. Since the Pribilof Island population is at less than 50 percent of carrying capacity, it falls below the lower bound of OSP and is, by definition, depleted. The MMPA defines "depletion" to mean, among other things, "any case in which the Secretary [of Commerce], after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under * * * this Act, determines that a species or population stock is below its optimum sustainable population * * *." The Marine Mammal Commission (MMC) provided a formal recommendation to designate the Pribilof Island population of North Pacific fur seals as depleted under the MMPA.

Once a species or population stock has been designated as depleted, intentional takings from that population are permitted only for research purposes or for subsistence and handicraft purposes by Alaskan Natives. Small incidental takes resulting from other activities may be authorized under certain circumstances. The following MMPA restrictions apply: A depleted species or population stock is not

eligible for a waiver of the moratorium on taking and importation, 16 U.S.C. 1371(a)(3)(A); it may not be taken or imported for public display purposes and no taking may be permitted in the course of commercial fishing operations, 16 U.S.C. 1371(a)(3)(B); it may not be taken under the small take exemption of section 101(a)(4), 16 U.S.C. 1371(a)(4); however, Pub. L. 99-659, signed November 14, 1986, extends the coverage of section 101(a)(5), 16 U.S.C. 1371(a)(5), to depleted species such that small incidental takes of such species or population stocks can be authorized for specified activities other than commercial fishing; and regulatory restrictions under the MMPA may be imposed on the taking of the species or stock by Alaskan Natives, 16 U.S.C. 1371(b). In the case of the Pribilof Island population of fur seals, subsistence regulations have already been issued under the authority of the Fur Seal Act of 1966, as amended, (FSA), 16 U.S.C. 1151 et seq. (See 51 FR 24828, July 9, 1986). Thus, the NMFS does not contemplate further rulemaking regarding Native taking of fur seals as a consequence of this depletion designation.

Until 1985, management of fur seals fell only partially within the purview of the MMPA by virtue of section 113. Section 113 provides that the MMPA shall not be considered to contravene the provisions of any existing international treaty or convention and its implementing legislation which applies to the taking of marine mammals. The exception created by section 113 of the MMPA clearly covered the Interim Convention on Conservation of North Pacific Fur Seals of 1957, and ensured that the Convention, and the FSA sections that implement the Convention, superceded application of certain provisions of the MMPA. These views received judicial approval in *International Fund for Animal Welfare v. Baldrige*, 594 F. Supp. 129 (D.D.C. 1984). Judge Gesell found that the fur seal population was below its OSP level, but that the commercial harvest was not barred by the MMPA's moratorium on taking as long as the Convention remained in force.

From 1957 through 1984, a commercial harvest of fur seals on the Pribilof Islands was conducted under the authority of the Convention. The Convention came into force on October 14, 1957, and was extended in 1963, 1969, 1976 and 1980. Under the terms of the 1980 extension, the Convention expired on October 14, 1984. On October 12, 1984, the United States, Canada, Japan and the Soviet Union signed a Protocol

that, upon acceptance by all four nations, would have extended the Convention until October 13, 1988. Japan, Canada and the Soviet Union ratified the 1984 Protocol. On March 20, 1985, the President transmitted the Protocol to the Senate, requesting its advice and consent. On June 13, 1985, a hearing was held on the Protocol before the Senate Committee on Foreign Relations, but no final action was taken.

In consultation with the Departments of State and Justice, and the MMC, NOAA determined that no commercial harvest could be conducted under existing domestic law, absent Senate ratification of the Protocol extending the Convention or provisional application of the Protocol. Accordingly, on July 8, 1985 (50 FR 27914), the NMFS issued an emergency interim rule to govern subsistence taking of North Pacific fur seals for the 1985 season under the authority of section 105(a) of the FSA. The purpose of the interim rule was to limit the take of seals to a level providing for the legitimate subsistence needs of the Pribilovians and to restrict taking by sex, age and season for herd management purposes. A permanent subsistence rule was proposed on May 15, 1986 (51 FR 17896), and a final rule was published on July 9, 1986 (51 FR 24828).

During consideration of the subsistence harvest regulations, a number of issues were raised concerning the OSP of the fur seals. In the preamble to the 1985 rule, the NMFS summarized the findings of the March 6, 1985, Status Review concerning OSP, and requested comments on and any additional data relevant to the issue of depletion for the North Pacific fur seal. At that time the MMC provided its formal recommendation to designate the Pribilof Island population of North Pacific fur seals as depleted under the MMPA. Four other commenters on the rule also requested a finding of depletion. Since a finding of depletion is a condition precedent to regulation of a subsistence harvest under the MMPA but not under the FSA, the NMFS chose not to make such a finding part of its 1986 proposed rulemaking, under section 105(a) of the FSA, and to address the issue independently. As noted by the MMC in comments on the interim rule, the designation of depletion carries with it certain restrictions which may affect the interests of private parties and other Federal and state agencies. Interested parties were therefore provided an opportunity to review and comment on the proposed designation as an issue separate from the proposed subsistence rules.

On December 30, 1986 (51 FR 47155), a proposed rule was published to add the Pribilof Island population of North Pacific fur seals to the list of depleted species at 50 CFR 216.15. At the request of a number of Native Alaskan and subsistence interest groups and their representatives, a public meeting was held in Anchorage, Alaska, on January 21, 1987, to accept oral comments on this proposal. An extension of the public comment period from a 39-day (ending February 6, 1987) to a 67-day comment period (ending March 6, 1987) was granted to accommodate the special needs of rural Alaskans (52 FR 4365, February 11, 1987). Comments were received and accepted through March 30, 1987.

On September 1, 1987, NMFS received a petition regarding this rulemaking from the St. Paul Aleut Community and the Pribilof Aleut Sealing Commission. The petition requested a reopening of the record, an environmental impact statement, an adjudicatory hearing, peer review, and a contribution to a Bering Sea Scientific conference. NMFS denied the petition on September 28, 1987. Copies of the petition and our response, containing specific bases for denial, are available from the information contact listed above. On December 31, 1987, the public comment period was reopened for 60 days as discussed below.

Public Comments on the Proposed Rule

(a) Public Meeting in Anchorage, Alaska

The following individuals appeared at the public meeting in Anchorage and provided their views and recommendations on the depletion of Pribilof Island fur seals:

- Anthony Philemonoff, Tanadgusix Corporation
- Michael E. Wheeler, St. Paul Traditional Village Council
- Adrian Melovidov, St. Paul Traditional Village Council
- Ron Philemonoff, Pribilof Fur Seal Commission
- Larry Merculieff, Pribilof Fur Seal Commission
- Agafon Krukoff, Aleut Corporation
- Dalee Sambo, Inuit Circumpolar Conference
- Vernita Zilys, Rural Alaska Resources Association
- Dave Monture (through Zilys), Indigenous Survival International
- Mike Zaharoff, Mayor, St. Paul, Alaska
- Suzanne Iudicello, Center for Environmental Education
- Patrick Kozloff (written), Aleut Leader
- Cindy Lowry, Greenpeace, Alaska
- John Grandy, Humane Society of the United States

Julie Kitka, Alaska Federation of Natives

(1) Effect on Subsistence Harvests

Of the 15 individuals who appeared at the public hearing on this issue, only the three representatives of environmental groups supported the proposed NMFS action. Seven speakers questioned the impact of a depletion finding for fur seals on Aleut subsistence uses. Most felt that animal welfare organizations would use the depletion designation to force additional restrictions on the Aleut subsistence hunt or force its complete elimination. As one St. Paul Island resident put it, "animal rights groups have shown their ability to manipulate Congress through public misinformation campaigns to prevent action to ratify an international treaty. There is little to prevent these groups from imposing their will on the agency and forcing a totally arbitrary administrative decision to further restrict or eliminate our subsistence rights once a depletion finding is made." This speaker further outlined the cultural and nutritional significance of seal meat on the Pribilof Islands. He listed a number of major changes that have been imposed on the Pribilovians in recent years, namely, the withdrawal of Federal jobs and services in 1984 (as the result of the 1983 Amendment to the FSA), cessation of the commercial skin harvest in 1985 (as a result of the expiration of the treaty), and publication of permanent subsistence harvest regulations in 1986. Designation of the Pribilof Island fur seal as depleted is considered by this speaker to be a final and unacceptable attack on the Aleut way of life.

Two speakers complained of implications that Aleuts may waste seal meat taken in the subsistence harvest, apparently in reference to the "wasteful manner" criteria of the MMPA. One speaker said "such regulatory language impugns the integrity of the Aleut people and all aboriginal people." One St. George Island resident demanded a reevaluation of the facts to "determine whether the subsistence harvest or any activities by the Pribilovians has or can have an impact on the size of the herd."

One of the consequences of a depletion finding for any marine mammal species is that regulatory restrictions under the MMPA may be imposed on the taking of the species or stock by Alaskan Natives. In the case of the Pribilof Island population of fur seals, however, subsistence regulations have already been issued and, as stated in the preamble to the proposed rule, "NMFS does not contemplate further rulemaking regarding native taking of

fur seals as a consequence of a possible depletion designation" (51 FR 47156). In his opening address at the public hearing in Anchorage, Deputy General Counsel of NOAA, Timoth R.E. Keeney, made the following comments regarding this issue:

There are apparently some misconceptions concerning the effect of the proposed rule on the subsistence harvesting. First, let me remind you that last July, 1986, we published permanent regulations governing the subsistence harvest of fur seals on the Pribilof Islands. At that time, it was anticipated that a depletion designation would be appropriate for Pribilof Island fur seals and that a separate rulemaking would follow to address this issue.

In other words, the subsistence regulations of last summer were predicated upon the probability that this species would be declared depleted. We do not need and do not intend to alter the subsistence regulations as a result of any designation of depletion under the Marine Mammal Protection Act. A depletion designation should not affect subsistence hunting.

The subsistence regulations at 50 CFR 215.31 were promulgated under the authority of both the FSA and the MMPA. Both acts provide for subsistence harvests, regardless of the status of the species if such taking is "not accomplished in a wasteful manner." The wasteful manner criteria was intended as a cap or safeguard for the native taking exemption and is not intended in the Act or in our regulations to insult or impugn the motives of native peoples.

Three speakers representing environmental groups emphasized that they are not proposing changes to the current subsistence regime and said they recognized the contribution of fur seals to the diet and culture of Pribilovians. One speaker stated that

I want to make it clear from the point of view of the Humane Society of the United States and for most of the organizations we've been associated with over time, including the two that have preceded us, there should not be in this depletion matter nor in anything else that we've said today, any implication that we are talking about eliminating subsistence use.

Indeed, we have continually supported the rights of the Aleuts to use fur seals to meet subsistence needs and we want to continue to do that.

The comment of one of the Pribilovian speakers concerning the possible impact of the subsistence harvest on the size of the herd is particularly relevant here. Any discussion of restrictions on subsistence take as a consequence of a depletion finding would include an assessment of possible contributions of the subsistence harvest to the population decline. Research conducted

under the terms of the treaty indicates that a harvest of females or harem bulls could have a disastrous effect on the already declining fur seal population. One of the causes of the population decline observed prior to the 1970s was the female harvest, 1956-1968. In contrast, based on available information, a harvest of subadult males at levels which allow for the future reproductive needs of the population will probably have no negative impact on long-term population trends. Clearly, an annual harvest in the range of 1,423 (1986 harvest total) to 1,802 (1987 harvest total) mostly subadult males, or less than 0.25 percent of the stock, could not be expected to contribute to a population decline or prevent a return to high population numbers.

(2) Possible Changes in Carrying Capacity

The second major concern addressed at the public hearing on the proposed rule was the determination of carrying capacity of the environment for fur seals. Six speakers challenged the NMFS conclusion that the carrying capacity for fur seals probably had not changed significantly since peak numbers were reached in the late 1940s to early 1950s. Several speakers pointed out that a number of species in the eastern Bering Sea are declining in numbers and concluded that the carrying capacity of this ecosystem had changed. One speaker gave a slide presentation on the rates of decline for certain seabirds. He pointed out the coincident declines of red-legged kittiwakes, common murres, Steller (northern) sea lions, and North Pacific fur seals near the Pribilof Islands. This speaker shared the view of most Aleut representatives that a reduction in pollock, thought to be due to overfishing, is the cause of the observed declines.

Several speakers claimed that the fur seal's carrying capacity had declined within the last two decades due to reductions in food availability and reduced habitats caused by pollution, including marine debris. One speaker believes that, although the Pribilof Island seal population reached its peak 40 years ago, it is now at its "natural equilibrium level" with a new, lower carrying capacity. Factors noted by the NMFS in the preamble to the proposed rule, namely relative stability in pup numbers in recent years, an increase in pup weights and a decline in duration of feeding trips at sea, are evidence, according to this speaker, of a "healthy population adjusting to a new equilibrium level."

Biomass trends for several species of groundfish in the Bering Sea indicate

that major components of this ecosystem have changed dramatically during the 1970s and early 1980s. Fluctuations in species populations of seabirds and marine mammals in this area could be related to changes in food availability, disease, toxic substances, or other factors. If food resources are limiting, however, as suggested by several speakers, we would expect to see reduced mean body sizes, reduced growth rates and higher pup mortality in the Pribilof population of fur seals. On the contrary, as discussed in the preamble to the proposed rule (51 FR 47159), the average body size and body length in this population has increased. Pup mortality rates on land are as low as those observed during the 1920s when the population was rapidly increasing.

As mentioned by one of the speakers, fur seals are vulnerable to changes in food availability near the Pribilof Islands during the breeding season. However, any changes in food availability near the Pribilof Islands that might explain a population decline of one-third in less than a decade, very likely would be reflected in increases in the length of the feeding cycle at sea near the Pribilof Islands as males and nursing females search for scarce resources. On the contrary, however, feeding trips to sea have declined in duration since the 1950s. This may be in response to an increase rather than a decrease in food availability near the Pribilof Islands and is consistent with the observed increase in pup weights. Toxic substances, such as heavy metals, are a potential factor in the fur seal decline that was mentioned by a number of speakers. As discussed in the preamble to the proposed rule (51 FR 47159), mortality in seals from toxic substances in their environment has not been demonstrated despite regular examination of seal tissues for such concentrations.

If changes have occurred in the resources or measurable abiotic components of the fur seal's ecosystem that would be detrimental to the Pribilof Island fur seal population, these changes have gone undetected in field studies. Fur seals, as indicators of current environmental conditions, have characteristics in common with populations that are not limited by their natural environment. Current pup mortality on land, growth rates, and the variance in mortality rates on land and at sea are all characteristic of a population substantially below its carrying capacity.

In addition to the statements made at the public meeting, written comments were also received on the determination

of carrying capacity for fur seals and further discussion of this issue can be found below. Two speakers questioned the pup estimates from the 1950s and felt our estimates were too high. As stated in the preamble to the proposed rule:

In view of the lack of complete reliability on the estimates of pups * * * other comparisons can be made to provide insight into the approximate level of decline in the population * * *. [There are] several indicators, in addition to pup numbers, that might suggest the current status of the population relative to the apparent peak in abundance in the 1940s and early 1950s. In 1983, harem bull estimates (down 53 percent), idle male estimates (down 56 percent), and commercial harvest levels (down 50 percent), had all declined significantly since the 1940s and early 1950s. The foregoing information, and preliminary analyses of photographs of rookery space utilization since about 1915, suggests a decline of about 50 percent in the population. (51 FR 47158)

(3) Timing of Our Decision

Six speakers stated that insufficient information was available to make a depletion finding and urged postponement of the decision until further research can be completed. NMFS is unable to grant this request. Since at least 1983, annual reviews of the Pribilof Island fur seal population, prepared for the North Pacific Fur Seal Commission, concluded that this population is probably below its OSP. While there exists uncertainty regarding some of the underlying data, our estimates indicate that the North Pacific fur seal population on the Pribilof Islands is currently below 50 percent of its carrying capacity, based on current population levels (about 800,000) compared to those of the 1940s and early 1950s (about 2.2 million). Since the late 1970s, the Pribilof Island population has declined by one-third. Once the Interim Convention expired, and management of the fur seals came under the MMPA, an affirmative decision on depletion became mandatory since current information indicates that the population is below its OSP. Should new, significant information become available in the future, based on additional research and further analysis of historical data, for example, a review of this decision would be appropriate. In addition, any future increase in the population above the lower end of the OSP range would be grounds for removing this population from the list of depleted species.

(b) *Written comments on the proposed rule.* During the first public comment period, from December 30, 1986 to March 6, 1987, the following groups and individuals submitted written comments on the proposed rule:

Senator Ted Stevens
North Pacific Fishing Vessel Owners Association
Alaska Factory Trawler Association
Marine Mammal Commission
Senator Frank H. Murkowski
Humane Society of the United States
U.S. Department of the Interior
Dan C. Heinemeier
Center for Environmental Education
Alaska Department of Fish and Game
Greenpeace U.S.A.
Alaska Groundfish Data Bank
Lydia T. Black
International Association of Fish & Wildlife Agencies
The Wildlife Legislative Fund of America
International Wildlife Coalition
Living Resources, Inc.

Of the 17 groups and individuals who provided 58 pages of written comments, seven supported the depletion designation. Nine commenters expressed concern regarding effects of the designation on fisheries, OCS oil and gas activities, commercial seal harvests, or the chances of renegotiating the Interim Convention. Most recommended a delay in rulemaking to accommodate additional research and analysis. One commenter requested an extension of the comment period. It should be kept in mind that the purpose of this rulemaking is to determine whether or not the Pribilof Island population of North Pacific fur seals fits the definition of "depletion", i.e., is it below OSP? The decision to be made is primarily a scientific one, and NMFS does not have the discretion from that finding on the basis of any potential consequences of a depletion designation.

(1) Possible Changes in Carrying Capacity

Five commenters questioned the assumption, discussed in the preamble to the proposed rule, that the carrying capacity of the Bering Sea and North Pacific Ocean for fur seals has probably not changed significantly since peak numbers of animals were observed during the 1940s and 1950s. These commenters believe that the carrying capacity for fur seals must have changed because a significant groundfish fishery has been operating in this area since the 1960s, pollution, including entangling plastic debris, must have increased during this period, major changes in fish and shellfish populations have been recorded, and declines in seabirds and other marine animals are coincident with the fur seal decline.

Reasons for what these commenters believe to be a decline in the ability of the environment to support higher fur seal populations include reduction in

food available to fur seals due to foreign fishing in the Bering Sea, and/or changes in water temperature or other physical parameters. As discussed above in response to the public meeting comments, and also discussed in the preamble to the proposed rule, we have not detected any effects on fur seals due to possible reductions in food resources or changes in their physical environment. On the contrary, fur seals show increases in body size and increased pup survival rates characteristic of healthy, growing mammal populations. Declines in numbers of fur seals, demonstrated by declines in pup estimates and counts of adult males, appear to be the result of factors causing increased mortality of juvenile age classes at sea (See 51 FR 47159-47160). Entanglement in marine debris may be a significant cause of this mortality, but other, as yet undetermined, factors may be contributing to the decline, as well.

The Marine Mammal Commission (MMC) agrees with our assessment, discussed in the preamble to the proposed rule, that it is unlikely that the carrying capacity for the fur seal's habitat has been reduced significantly. This assessment is based, in part, on an examination of changes in length and size of individual animals, and duration of feeding trips to sea, which suggest increased rather than decreased availability of food. The MMC included with their comments a copy of Swartzman, G.L. and R.T. Haar, 1983, Interactions between fur seal populations and fisheries in the Bering Sea, Fishery Bulletin, Vol. 81, No. 1, pp. 121-132. This report concludes that the changes which have been observed in the fur seal population do not support the hypothesis that fur seal carrying capacity has been reduced by fisheries for important fur seal prey species such as walleye pollock and Pacific herring.

Regarding the impact of the start of a major pollock fishery in 1964 with peak yields in the early 1970s, the authors note that

Study of the fur seal diet data indicated that walleye pollock comprised a larger part of the fur seal diet in the 1970's, after the establishment of the fishery, than earlier, although average pollock size appeared to drop significantly. This trend may have been induced by an increased harvest of older fish. Since walleye pollock are cannibalistic, the removal of the older fish by the fishery could result in lower mortality among the younger pollock stocks, the outcome being an increase in the pollock resource available to both the fishery and the fur seal.

While NMFS does not believe that food is a current limiting factor for the

Pribilof Island fur seal population, work is proceeding on further analyses of feeding behavior, diet, and the relationships between fur seals and their prey species in the Bering Sea and North Pacific Ocean. Identification and elimination of the cause or causes of the population decline is a major objective of the NMFS fur seal conservation plan.

On this issue, the Alaska Department of Fish and Game (ADF&G) provided the following opinion:

During the period over which the Pribilof Island fur seals have declined in abundance, commercial fisheries have expanded greatly in some parts of their range. The supplementary information with the proposed rule states that parameters such as pup weight and body size of older animals have increased in recent years, which shows "that the ecosystem can still support a fur seal population as high as that observed in the 1940s and 1950s." This is incorrect. The increases referred to suggest an increase in *per capita* food availability, but do not show that food availability in the environment is still adequate to support 1.8 million fur seals. In other words, if the carrying capacity for fur seals was reduced by 50 percent while the population declined by 60 percent, the remaining seals would experience a *per capita* increase in food availability, and show the growth responses that have been documented.

NMFS agrees that the current and historic relationship between fur seals and the fisheries remains unclear. No numerical model exists to provide an answer with any reasonable degree of certainty on the number of fur seals that could be maintained by current prey resources. A plausible, intuitive argument is that the removal of millions of tons of groundfish by commercial fisheries since the 1960s would decrease the carrying capacity of the Bering Sea for fur seals. However, some model results indicate that removal of larger, older fish by fisheries has in fact increased the availability to fur seals of the smaller, younger sizes that they prefer to prey upon. This would have the effect of improving the fur seal's lot. Moreover, we cannot find any evidence of food limitations in individual fur seals.

ADF&G suggests that our findings, i.e., increased pup weights and juvenile body sizes, are not indicators that the carrying capacity can still support about 2 million fur seals, but only show a *per capita* increase in food availability consistent with a reduction in carrying capacity. We are not, however, merely comparing findings in 1940-1950 to current data. An extensive time series of data exists since 1940-1950 on pup weights, length of harvested seals, teeth weights, pup mortality rates, depth of dives and duration of trips to sea. These

data show no evidence over the entire period for catastrophic changes in food or other environmental factors that might explain the loss, for example, of over one-third of the population since the late 1970s.

ADF&G also pointed out that "the data regarding the past and present size of the fur seal herd are actually extrapolations of estimates rather than counts." This refers to the method used to estimate the size of the Pribilof Island herd, namely, estimates of pups born, information on the age/sex structure of the population and age-specific survival estimates. Only adult males (territorial bulls) are directly counted. These counts show a decline of over 50 percent since the 1940-1950s and are still declining (1987).

ADF&G commented on the population decline rate as follows:

Extrapolations of total population size from estimates of pup production may be seriously biased if the relationship of population size to carrying capacity changes. Productivity is likely to respond in a density-dependent fashion such that per capita production of pups will decrease as the population approaches carrying capacity (K). In a population at or near carrying capacity, the proportion of females giving birth on the rookeries each year will be lower, and therefore the total population size may be under estimated from pup counts. This factor, in combination with problems in estimation techniques that occurred especially during the years of high pup abundance, suggests that the actual decline in population size may be less than indicated. Data other than pup estimates also suggest that the population size has declined in recent years, but the actual magnitude of the decline is poorly understood.

Work is in progress on St. Paul Island to assess any changes that may be occurring in fur seal natality rates. At this time, we are not convinced that such changes as ADF&G suggests are affecting population size estimates. As discussed earlier, in addition to pup estimates, the magnitude of the population decline can be estimated from photographs of rookery space utilization since about 1915, direct harem bull counts (down 53 percent) and idle male estimates (down 56 percent).

Another commenter provided his opinion that "the North Pacific fur seal is not presently depleted." According to this commenter the fur seal "may now be below 50 percent of the maximum population size that occurred in the 1940's and 1950's. It is not 50 percent below the long term carrying capacity for fur seals." The commenter states:

The key issue is whether the large size of the population in the 1940's and early 1950's is a valid "benchmark" on which to make a

determination about carrying capacity of the marine environment that supports fur seals. In my opinion the high numbers of the late 1940's and early 1950's were a short term anomaly which resulted from the rapid recovery of a population reduced to very low numbers in the 1910-1918 period. I seriously doubt that such a population size can ever again be reached *except* through the same mechanism of recovery from very low numbers resulting from severe exploitation or unusual natural calamity. In either case the maximum attainable population size can not be maintained for long in nature.

This commenter notes two examples of "artificially high populations that exist for a short period of time", Weddell seals in McMurdo Sound, Antarctica and Pacific walrus. According to this commenter, the pre-exploitation size of the Weddell seal population was about 2,000. This population was greatly reduced by harvesting and subsequently increased to 3,000 and has since declined to less than 2,000. In this commenter's opinion, a parallel situation is underway with Pacific walruses, where peak numbers observed in 1978-82 "were not sustainable over time." It is the opinion of NMFS, however, that the population of North Pacific fur seals in the 1940s-1950s was not an artificially high, peak level that is not sustainable over time. Indeed, the maximum numbers and relative stability, as evidenced by direct bull counts, lasted almost 20 years. This high population level was ended by the large harvests of female seals in the late 1950s-1960s. The effect of the female harvest should have passed through the population by the mid-late 1970s, and the population could by that time have begun to return to high levels. In our view, by the mid-1970s another factor or factors had begun to increase mortality of, especially, juvenile age classes. The cause of this mortality is not yet completely understood.

The MMPA does not require that marine mammal populations be kept at maximum recorded levels, but that they be maintained at optimum sustainable levels. In the case of the Pribilof Island fur seal we believe this level is at least 60 percent of the numbers attained during the 1940s-1950s. To assume that the high populations of this time were "not sustainable over time" merely because they were not indeed sustained due to improper management (i.e., the female harvest) begs the question of the appropriate carrying capacity for this species. This commenter claims that "major changes in abundance of several components of the Bering Sea ecosystem" and changes in the physical environment "argue against the presumed stability in carrying capacity."

for fur seals." An intuitive argument can indeed be made for a reduction in the carrying capacity. But, to repeat, we find no evidence in nearly 30 years of consecutive data on the fur seals themselves to suggest that there are environmental factors limiting the population to current, or lower, levels.

(2) Effect on Commercial Fisheries

The MMC and the Alaska Factory Trawler Association (AFTA)/North Pacific Fishing Vessel Owners Association requested additional information on the expected impacts on commercial fisheries of a depletion designation for fur seals. Two other commenters questioned our assessment of the level of incidental take of fur seals in foreign and domestic fisheries. Under the MMPA, permits for incidental taking during the course of commercial fishing may not be issued for depleted species.

Six domestic general permits issued by NMFS in 1984 authorize the incidental take of North Pacific fur seals and other marine mammals in the North Pacific Ocean. A total of 25 fur seals are authorized to be taken annually incidental to commercial fishing operations. These 5-year permits expire on December 31, 1988. If Pribilof Island fur seals are designated as depleted, NMFS under present law may not issue permits for their incidental take, although we know that these animals will inevitably be taken in the course of some fisheries operations.

NMFS has interpreted its authority under the MMPA to include discretion to issue permits for incidental taking when populations covered by the permit will not be disadvantaged, without requiring proof that all other species that might possibly be taken are also within OSP. However, in a recent decision involving a permit issued to the Federation of Japan Salmon Fisheries Cooperative Association to take Dall's porpoises incidental to commercial salmon fishing, a much stricter interpretation of the MMPA has been adopted by the courts (*Kokechik Fishermen's Ass'n, et al. v. Secretary of Commerce, et al.*, No. 87-5239, slip op. (D.C. Cir. February 16, 1988)). The courts considered whether or not NMFS may legally issue a permit allowing incidental taking of one protected marine mammal population that was above OSP knowing that other protected marine mammals (not demonstrably at OSP) would also be taken. The courts held the permit NMFS issued to the Federation to be invalid and "contrary to the requirements of the MMPA." This decision may be appealed.

In response to concerns about impacts on commercial fisheries that have arisen out of this case, NMFS announced its decision to support an amendment to the MMPA (See 52 FR 19874, May 28, 1987). This amendment could allow incidental, but not intentional, takings of small numbers of depleted marine mammals by vessels engaged in commercial fishing if such taking will have only a negligible impact on the affected population. NMFS is now considering whether or not it can reissue domestic general permits for fisheries that might take depleted stocks or species for which no OSP determination has been made (See 53 FR 2069, January 26, 1988). Consequences of a depletion determination for the Pribilof Island population of North Pacific fur seals will depend on these deliberations and on potential Congressional action on MMPA reauthorization during 1988.

One commenter suggests that unreported incidental takes could be higher than expected and states that

For example, the fur seal has been one of the species covered in the domestic general permit issued to the North Pacific Fishing Vessel Owners Association * * *. There are no observers on these U.S. based fisheries, so there are no actual estimates of numbers of fur seals taken. A review of entanglement in North American Fisheries (CEE, Marine Wildlife Entanglement in North America, in press) has shown that fishermen tend not to report incidents under the permit certificates of inclusion. With increased participation by U.S. based fishermen in several of the bottom fish trawl fisheries in the North Pacific, which are known to take fur seals, the exclusion of the fur seal from the general permit could have a significant impact in reducing mortalities if the prohibition is enforced. On the other hand, an incentive of no prosecutions for accidental takings could conceivably be used as the basis for a scientific observer program aboard U.S. vessels.

Along similar lines, the MMC made the following comment

It is not clear, for example, where, when, how, and how many fur seals are being taken in commercial fishing operations in the North Pacific Ocean. Therefore, we consider it desirable to expand research efforts so as to make those determinations and to identify appropriate changes in fishing gear and practices that would reduce or eliminate incidental take.

Research of this nature requires the cooperation and assistance of parties involved in commercial fishing operations. Consequently, it is desirable to include commercial fishing operations in the research program. This could be done by authorizing participating fishery operators to incidentally take fur seals as part of the Service's directed research program and pursuant to a Marine Mammal Protection Act scientific research permit. Such a program would provide authority to incidentally take small numbers

of fur seals while providing important information necessary to assess accurately the nature and possible significance of fur seal incidental take and to determine, if necessary, how fishing gear and practices could be modified to reduce or eliminate incidental take.

NMFS remains convinced that the incidental take of fur seals in the course of commercial fishing is probably insignificant, at least within the U.S. EEZ and territorial waters. We believe the number of fur seals incidentally killed in both foreign and domestic fisheries is less than 50 each year. At this time, based on observer reports, incidental take in active gear of foreign or domestic fisheries in the EEZ and territorial waters does not appear to be a significant cause of mortality and is not considered a likely factor in the population decline. In 1986, only one fur seal was observed taken by foreign fishing vessels off Alaska. It would hardly seem worthwhile to engage commercial vessels in research operations when the chances of encountering an entangled animal are so low. On the other hand, should new data indicate that incidental take is a significant or contributory cause in the decline, NMFS will reassess its research priorities to include work on gear and operational improvements to prevent significant taking of fur seals in commercial fisheries.

One commenter requested an assessment of the incidental take of fur seals in the squid driftnet fishery outside the U.S. EEZ. In 1986, a U.S. observer reported the taking of 14 North Pacific fur seals during 30 sets. There were no observers during 1987, but the United States continues to seek participation in a cooperative observer effort to estimate incidental take of marine mammals in this fishery. At this time, insufficient data exist on which to base any conclusions regarding the actual level or rate of incidental take in this fishery.

(3) Effects on Oil and Gas Development

The Department of the Interior (DOI) is concerned that designating the Pribilof Island fur seal population as depleted could inhibit production of domestic oil and gas resources on the outer continental shelf (OCS) of Alaska and possibly California, Oregon and Washington. DOI stated that:

A depletion designation may inhibit OCS leasing and permitting activities. In addition, the requirements and procedures for obtaining permits under the MMPA for small incidental but unintentional taking of fur seals would presumably apply to OCS operators. We are concerned that designation of the population as depleted may have an effect on the ability of those operators to plan

their activities and obtain incidental take permits or meet permit requirements. For example, offshore Alaska, depletion designation may lend credence to a perceived need for a leasing-and/or activity-free buffer zone around the Pribilof Islands. This could complicate the use of the Pribilofs as a support base for Bering Sea OCS activities. Increased industry costs associated with any potential new restrictions or permit requirements cannot be accurately predicted at this time.

In areas offshore California, Oregon, and Washington, a depletion designation would probably not have a significant effect on the OCS oil and gas program. However, most female and young male fur seals spend winters and springs in these areas. In the extremely unlikely event that a large oil spill resulted from OCS activities, unintentional "take" of fur seals could occur under certain circumstances (e.g., oil moved offshore into areas inhabited by fur seals). If such a circumstance arose and taking of fur seals resulted, it would be difficult, if not impossible, to determine whether the animals "taken" were from the Pribilof population or the local, nondepleted, San Miguel population. Thus, a practical matter of identifying impacts to the Pribilof Island population complicates how incidental taking could be assessed in these areas during winter and spring.

As we pointed out in the preamble to the proposed rule, Pub. L. 99-659, signed November 14, 1986, amended the MMPA by extending the coverage of section 101(a)(5), 16 U.S.C. 1371(a)(5), to depleted species. Small incidental takes of depleted species or population stocks can be authorized for specified activities other than commercial fishing, including OCS oil and gas development. The findings needed to satisfy 101(a)(5) are the same whether the population is depleted or not. However, any significant taking from the population would require a waiver of the moratorium. A depleted species is not eligible for a waiver. Thus, if large numbers of fur seals are expected to be taken in the course of oil and gas development offshore Alaska, California, Oregon, or Washington the depletion designation will foreclose the possibility of a waiver of the MMPA's moratorium to accommodate any significant taking for this purpose.

In addition, the DOI wants to clarify that the FWS did not recommend that the North Pacific fur seal population be designated as depleted (as stated in the preamble to the proposed rule), but rather supported initiation of the formal designation process. DOI further recommends that additional analysis be done concerning the determination of carrying capacity for fur seals.

(4) Effect on Subsistence Taking

Three commenters addressed the possible effect of a depletion

designation on subsistence rights. One commenter stated that "it is imperative that should a finding of depletion be warranted, thorough discussion of the impacts of such a finding on the existing subsistence regulations be included in the final decision." As stated at length earlier during discussion of the public meeting, the NMFS does not intend to alter the subsistence rule as a consequence of the depletion finding. As another commenter put it "a depletion designation does not create any basis to reopen rulemaking or reexamine subsistence harvest regulation." A third commenter "supports the existing approach to regulation of the fur seal harvest, and does not advocate any further restrictions of this important subsistence right."

(5) Effect on Ratification of the Convention

Four commenters suggested that a depletion designation would have an adverse effect on ratification of the 1984 Protocol extending the Interim Convention. One commenter requested assurances that "if a depletion finding is made, that such a finding will not preclude a future commercial harvest of the North Pacific Fur Seal." Another stated that "the NMFS and the U.S. Senate can do more to help the North Pacific Fur Seal by working to ratify the Treaty as quickly as possible, then it has over the past three years while trying to appease animal protection groups." However, this commenter will "support a Treaty that suspends the commercial harvest until the North Pacific Fur Seals have reached sustainable numbers." Another commenter believes that depletion "will indubitably aid those who object to the renewal of the Interim Convention * * *." The fourth commenter believes that "the depletion proposal is an ill-supported expedient to employ the Marine Mammal Protection Act in the absence of Treaty extension at the risk of reducing the present fur seal population." This commenter believes we have failed to discuss "the effects of the failure of the U.S. Senate to ratify the extension of the North Pacific Fur Seal Treaty and consequent commercial pelagic sealing."

As discussed above, the 1984 protocol to the Interim Convention has not been ratified. In 1985, in consultation with the Department of State (DOS), the Department of Justice, and the MMC, NOAA determined that no commercial harvest of fur seals could be conducted under existing domestic law (i.e., the MMPA and the FSA) without Senate ratification or provisional application of the protocol.

The protocol was submitted to the Senate for its advice and consent to ratification in March 1985. The DOS received a letter in April 1985 signed by 44 Senators stating their opposition to the protocol. This precluded any chance of achieving the two-thirds majority needed for ratification. The opposition to the protocol was based on objections to the commercial harvest provision of the Convention. Unlike domestic law, the treaty allowed the continuation of the commercial harvest despite the decline in the fur seal population.

In 1986, DOS renewed its request for favorable consideration of the protocol. The staff of the Senate Foreign Relations Committee recanvassed the opposition and found that it remained unchanged. The Senate will not give its advice and consent to ratification of the 1984 protocol, and, consequently, the Interim Convention is no longer in effect. Consultations are planned, however, with former parties to the Convention on the possibility of a new agreement that would extend the pelagic sealing ban and continue international research coordination on fur seals. No commercial harvests are possible on the Pribilof Islands while this population remains below OSP.

(6) Status under the ESA

One commenter that supports the depletion designation also encourages NMFS "to reconsider its decision and list the fur seal as a threatened species" under the ESA. As mentioned above, our decision not to list the Pribilof Island population as threatened was based on a number of factors, including the current size of the population. In our view this species' population of about 1 million is probably not at or near a critical level that could lead to extinction in the foreseeable future. In the early 1900s, the species reached levels as low as 300,000 and was still able to rebound to numbers as high as 2-3 million. As this commenter points out, one of the bases of our decision was the fact that this species was the subject of an international treaty that prohibited pelagic harvesting, encouraged international research cooperation, and placed limits on harvests of this species on land. We considered that a mechanism was already in place for the conservation and recovery of this species to higher levels.

Since our 1985 ESA decision, the treaty has lapsed and the species has come under the purview of the MMPA. The FSA and the MMPA are now the regulatory authority for a subsistence harvest on the Pribilof Islands. Further restrictions on taking from the Pribilof

Island stock will be imposed as a result of this depletion designation, i.e., no permits will be issued for incidental take or public display. The subsistence regime, and the depletion designation, should provide an adequate regulatory mechanism for the recovery of the Pribilof Island stock. The NMFS will, however, consider the fur seal for an ESA candidate species list that is currently under development. Continued declines in species populations will result in periodic reconsideration of an ESA listing.

(7) Conservation Planning and Other Issues

Four of the commenters who supported a depletion designation urged immediate action on recovery of the species. One commenter noted that:

Common sense and public policy demand that in the face of a 4 to 8% annual decline in a population already reduced to below 60% of its OSP, resource managers must act quickly to stop the decline and take measures to restore the population. In today's world of competing demands for marine resources, and increasing pressures for development in marine and coastal habitats, it is a given that man's activities will continue, inevitably, to alter the carrying capacity of our oceans for marine life. The argument that the agency use "diminished carrying capacity" as a method to avoid making a strictly numerical depletion finding begs the question of whether, faced with a significantly reduced and declining population, resource managers simply revise the "bottom line." Such an approach is counter to the intent and purpose of the Marine Mammal Protection Act.

Another commenter states that "we understand that the agency, as is customary in the scientific community feels compelled to accompany its references to research results and conclusions about the fur seal population with appropriate qualifiers. Nonetheless, neither the agency nor the public should harbor any doubts about the strength of the evidence that the North Pacific Fur Seal is in jeopardy and is suffering a severe decline in population, due especially to entanglement in ocean debris." This commenter further noted that "we support the agency's decision to formally designate this population as depleted. This step, long appropriate and too long delayed, we hope, signals NMFS' renewed commitment to take all regulatory and enforcement measures necessary to protect the North Pacific Fur Seal."

A third commenter believes "it is the responsibility of the NMFS to take immediate corrective measures to ensure the population will recover. After the final determination that the population is depleted, we look forward

to the timely receipt of proposals to replenish the population of the Pribilof Island stock of Northern fur seals, as the preliminary step to the NMFS fulfillment of their obligation under the law." The fourth commenter on this issue recommends that "the most sensible way to approach the declining fur seal population is to give it protection while seeking to ascertain the exact reasons for the decline. Designation as depleted will be a proper initial step." This commenter further suggests that "monitoring of the fur seal population continue through observation and nondisruptive censusing methods. In addition, we urge that all possible steps to minimize continuing entanglement of fur seal in netting and plastic debris be implemented."

NMFS is preparing a conservation plan for fur seals that will be available for public review later this year. The conservation plan will have as its goal the recovery of the Pribilof Island population to OSP. The plan's objectives will include (1) the identification and elimination or mitigation of the cause(s) of the population decline; (2) monitoring population trends to ensure that fur seals remain a significant functioning element in their ecosystem; and (3) actions needed to minimize adverse effects on fur seals and their habitats from man's activities. Research, public education, and industry assistance on the entanglement problem will be significant elements in our plan. The existing subsistence harvest regime, this depletion designation, and the development and implementation of a conservation plan for the Pribilof Island fur seals provide a coordinated program of conservation efforts that should lead to a recovery of this population to more productive and sustainable levels.

One commenter also recommended that we assess the status of other North Pacific fur seal populations and begin a review of the status of the Steller sea lion under the MMPA. We do not have sufficient data, at this time, on historic trends in populations of North Pacific fur seals under Soviet jurisdiction to provide accurate assessments of the current status of these populations. Historically, the Pribilof Island population, by number, has represented about three-fourths of the species. On April 24, 1987, NMFS announced its intention to prepare a report on the population status of Steller sea lions to determine abundance and trends (52 FR 13743). The resultant report, entitled "Status Review, Northern (Steller) Sea Lion (*Eumetopias jubatus*) in Alaska" (January 1988), concludes that the number of adult and juvenile sea lions observed on rookeries in southwest

Alaska declined about 52 percent from at least 140,000 in 1956-60 to about 68,000 in 1985. Copies of this report are available from the information contact noted above.

(c) *Reopening of the public comment period.* NMFS reopened the public comment period on the proposed rule for a 60-day period, ending February 29, 1988, to consider additional information on possible changes in the carrying capacity of the Bering Sea ecosystem (52 FR 49450, December 31, 1987). Biomass trends for red king crab and several species of groundfish in the Bering Sea were presented to demonstrate that changes have occurred in important components of this ecosystem during the 1970s and early 1980s (See 52 FR 49452-49456).

New information was presented that indicates that the carrying capacity of the central North Pacific has changed over the past 20 years. An article in *Science* magazine (E.L. Venrick, et al., 1987, Climate and chlorophyll a: Long-term trends in the Central North Pacific Ocean, *Science* 238:70-72) reported a significant increase in chlorophyll a, an index of phytoplankton biomass, in the central North Pacific. This increase was correlated with decreases in sea surface temperature and more active winter storminess. According to the *Federal Register* notice, this article and previous work by NMFS "suggest one plausible mechanism, a trend in storm activity, through which the carrying capacity for fur seals might be affected."

On December 17, 1987, in anticipation of the reopening of the comment period on the 1986 proposed rule, The Humane Society of the United States and Friends of Animals filed a complaint for declaratory and injunctive relief to compel NMFS to issue forthwith a final depletion rule. On January 11, 1988, Plaintiffs filed a motion for summary judgment and request for expedited consideration on their earlier claim (*The Humane Society of the United States et al., v. C. William Verity, et al.*, Civil Action No. 87-3433, D.D.C.) In association with these actions, on February 10, 1988, NMFS indicated that a review of the additional information provided in the *Federal Register* notice did not change the previous view that the Pribilof Island population of North Pacific fur seals is below OSP and is therefore depleted.

It is possible that a change in some physical factor in the fur seal's environment—such as storm activity—could have altered the carrying capacity of the Bering Sea and North Pacific Ocean. However, following a review of available scientific information, and

based on public comments on this issue, it appears that there is little or no evidence supporting this hypothesis. Accordingly, NMFS has concluded that no new information exists on this subject to warrant further delay on a depletion designation.

During this second public comment period, the following groups and individuals submitted written comments:

Alaska Native Brotherhood, Grand Camp
 Senator Fred F. Zharoff, Alaska State Legislature
 United States Department of the Interior
 Aleutian/Pribilof Islands Association, Inc.
 Greenpeace U.S.A.
 Alaska Factory Trawler Association
 Friends of the Sea Otter
 Nana Regional Corporation, Inc.
 Rural Alaska Community Action Program, Inc.
 The Aleut Corporation
 Eskimo Walrus Commission
 E.L. Venrick, Scripps Institution of Oceanography
 Committee for Humane Legislation
 The Humane Society of the United States
 Tribal Government of St. Paul
 Center for Environmental Education
 Indigenous Survival International
 Rural Alaska Resources Association
 Alaska Federation of Natives, Inc.
 International Association of Fish and Wildlife Agencies
 Alaska Department of Fish and Game
 William N. Arterburn, Willow, Alaska

Eleven commenters representing Alaska Native subsistence groups strongly opposed the depletion designation because, as one commenter states, "[d]eclaring the Pribilof Island population depleted would have a significant adverse effect on the well-being of the Aleut people of the Pribilof Islands. And as a precedent, it could also have a significant adverse effect on all Alaska Natives who depend upon marine mammals for their sustenance." These groups urge closer cooperation between NMFS and user-groups on a conservation and management program for fur seals as an alternative to the depletion finding.

The effect of the depletion designation on subsistence users was the major subject to discussion during the public meeting on the proposed rule on January 21, 1987, in Anchorage, Alaska. These concerns are addressed in detail above. As discussed above in section (a)(1), in the preamble to the proposed rule, and during an opening address at the public meeting, once a species or population is designated as depleted, regulatory

restrictions under the MMPA may be imposed on taking by Alaska Natives. However, in the case of the Pribilof Island population of fur seals, subsistence regulations have already been issued under the authority of the Fur Seal Act. No further regulation is deemed necessary nor is it contemplated by NMFS as a consequence of this designation. A depletion designation for Pribilof Island fur seals does not mean that other Alaska pinnipeds are more likely to be designated as depleted. This action is not a "precedent" for future designations unless the biological status of other populations also warrants a depletion designation, i.e., they fall below OSP.

The 11 Native subsistence representatives also stated that "weak" or "unsupported" scientific evidence was used in making the depletion designation. Several commenters mentioned dissension within NMFS on the depletion question. Clearly there has been disagreement on this issue as evidenced by the reopening of the comment period. Additional scientific information was provided by NMFS's NWAFC to counter the assumption in the proposed rule that the carrying capacity of the Bering Sea had probably not changed since the 1950s. There is, however, complete agreement on the fact that the population has declined by over 50 percent since the 1950s. The point of dissension concerned whether or not the peak number observed in the 1950s represents the current carrying capacity or maximum number of fur seals that the Bering Sea and North Pacific Ocean can accommodate today.

The Tribal Government of St. Paul observed that the notice reopening the comment period did not reference the information introduced during the public meeting in January 1987, concerning "the reduced carrying capacity of the Bering Sea indicated by population declines in other species, particularly birds and other marine mammals." As discussed above (in section (a)(2)), coincident declines in sea bird populations and in the Steller sea lion were presented during the public hearing by Native groups as evidence that the carrying capacity must have changed due to overfishing, especially of pollock. The evidence for a reduction in food availability as an explanation of the decline (or a reduction in carrying capacity) has been thoroughly evaluated (see sec. (a)(2) and (b)(1)). The robust nature of individual fur seals and the observed reduction in feeding time at sea has led to the conclusion that food is probably not a limiting factor for this population.

The Tribal Government stated that "[t]here are key gaps in NOAA's definition of OSP" and demanded the answers to certain questions.

These questions include: (a) whether the term carrying capacity comprehends maximum sustainable, as opposed to all-time high, population numbers; (b) whether factors such as entanglement, harvest of food species, environmental contaminants, or deliberate population reduction programs, are to be regarded as carrying capacity limiters, and if not, whether carrying capacity is a concept intended to recapture an unattainable state of nature, before man's appearance on the scene; (c) whether MNP for Pribilof Island fur seals can be set, in a peer-reviewed, scientifically accepted manner, as a population size sixty percent of the carrying capacity level. A failure to resolve definitional questions in any rule to designate the Pribilof Island fur seal population as "depleted" would render the proposal fatally defective.

Carrying capacity is the upper bound of a range of population numbers within OSP. It does not coincide with maximum sustainable yield, a concept similar to MNP which is the lower bound of the OSP range. Carrying capacity is not necessarily the "all-time high" population level. Carrying capacity means the maximum population level that the ecosystem can support at equilibrium, or the mean number of animals in a population undergoing natural fluctuations about the level supportable by the environment. In the case of the Pribilof Island fur seal, the number of pups born during the 1940s and early 1950s was averaged to determine the carrying capacity level (about 555,000 pups or 2.2 million total population). The definition of OSP provides a range of population numbers to accommodate the fact that numbers of animals may fluctuate between MNP and the carrying capacity (i.e., 1.3-2.2 million animals). Evidence for a reduction in food availability for fur seals could, if it existed, change NMFS's opinion on the level of the population representing the current carrying capacity. Major changes in physical factors, atmospheric or oceanographic, could be evidence for a change in carrying capacity. This was the subject of the reopening of the comment period. However, relatively short-term, man-induced mortality factors such as marine debris or other contaminants would not necessarily be of such a sustained or widespread occurrence as to constitute a change in the carrying capacity of this environment. The determination of MNP for this species has been the subject of several "peer-reviewed" scientific articles as discussed in the proposed rule and its

references (see 51 FR 47160). This subject is further discussed below.

The Tribal Government asked to incorporate by reference their September 1987 petition for a reopening of the record on the proposed rule and other matters. As mentioned above, this petition was denied by NMFS and copies of the petition and our denial are available from the information contact listed above. The Tribal Government renewed the following comments: (1) The carrying capacity of the environment of the Pribilof Island population of fur seals has declined since the early 1950s; (2) MNP is not sixty percent of the carrying capacity level or the 1950s high; (3) higher mean body weights and growth rates, and historically uniform pup mortality and length of feeding cycles, would not tend to prove that the Pribilof Island population of fur seals is not food-limited.

A response to these comments can be found above in sections (a)(2) and (b)(1) since these concerns were raised during the first public comment period. In addition, this commenter quotes a 1978 NMFS memorandum to demonstrate the change in NMFS' position regarding the cause or causes of the decline in Bering Sea marine mammals and other species. In the 1978 memorandum, the decline in fur seals was largely attributed to "the development of a tremendous commercial fishery." It concludes that the carrying capacity for fur seals "could be considerably less in 1978 than it was in 1956." It should be noted that the number of Pribilof Island fur seals has declined by one-third since the late 1970s, and this second, steeper, decline phase is inversely related to the level of commercial fishing effort, which has decreased considerably during this period.

The Tribal Government also repeated their comments concerning food-availability, which have been addressed in detail above (see section (a)(2)), and provided the following "new evidence": "greater abundance of Copepods since 1982 correlated with enhanced growth rates in Least Auklets. This indicates that primary predator on Copepods—pollock—are less abundant." They also mention studies of murres and kittiwakes and their analysis of foreign shipping logs to demonstrate their strong belief that overfishing of pollock is the cause of these population declines.

The Tribal Government is concerned that the "NMFS staff and no rational basis in fact to support its assertion that the Pribilof Island population of fur seals can attain any given, higher level of abundance." This is an important misunderstanding of previously

published material. NMFS has not determined finally the cause or causes of this population decline; consequently, we cannot anticipate when, if ever, this population can return to previous high numbers. It is possible that this population may never return to 1950s levels despite all efforts available by law. This is not sufficient reason to fail to act on a depletion designation. The population is below its OSP and the goal of NMFS conservation efforts will continue to be to bring it up to OSP, i.e., 1.3 to 2.2 million fur seals.

Commenters further claim that the use of 60 percent of carrying capacity as an estimate of MNP "has not been accepted * * * as applicable to the Pribilof Island fur seal population. It is based on species or environments not analogous to fur seals." In the preamble to the proposed rule (51 FR 47160) it is stated that "[b]ased on empirical information for fur seals (Smith 1973) and interspecific comparisons (Fowler 1984b), the population at which maximum productivity (maximum natural growth of the total population) would occur is about 60 percent of the carrying capacity."

An overview of the literature on population dynamics of large mammals shows that they tend to exhibit their greatest level of productivity (rate of population change) at population levels which are close to the mean naturally occurring levels (or the carrying capacity of their natural environments). So far, all such populations appear to grow most rapidly (in numbers per unit time) at levels greater than 50 percent of carrying capacity, some at 80 percent or higher. In addition to fur seals, this relationship has been shown for fin whales, gray whales, and *Stenella* dolphins.

The Tribal Government claims that the Marine Mammal Commission (MMC) did not "substantiate in the record a detailed scientific and factual basis for its recommendation of depleted status. At any event, its recommendation is at least three years' dated and obscures food abundance issues—in which it has little competence. Thus, a remand of that recommendation to the Commission and the NWAFC jointly is warranted." The MMC provided comments during the first comment period in March 1987 that repeated its advice on the depletion issue (see section (b)(1)). The legal representatives of the Tribal Government and of other Pribilof Aleut entities were provided copies of all comments received on the proposed rule and copies of the transcripts of the public meeting.

The commenter questions whether or not our OSP determination for the Pribilof Island fur seal population could be sustained in court and attempts to draw certain analogies with a separate proceeding involving an OSP determination for the Commander Island population (See a discussion on the Dall's Porpoise case in sec. (b)(2)). They also state that "a depletion finding would compound existing havoc for Pribilof Islander's subsistence, its ports, and for commercial Native take of fur seals."

The Alaska Department of Fish and Game (ADF&G) believes that the fur seal population decline in the late 1950s and early 1960s was caused primarily by a harvest of females and that the decline in pup production in the late 1970s can be partially attributed to entanglement of seals in net debris. ADF&G further concludes "informed scientists agree that they cannot determine the present carrying capacity of the Bering Sea and North Pacific Ocean for fur seals or directly evaluate whether it has changed in recent years." ADF&G present the following explanation for the recent changes in abundance of the Pribilof Island fur seal population.

The carrying capacity for fur seals in the early to mid 1950s was approximately 2.2 million animals (as indexed by pup production of about 555,000). At that time, some stocks of fishes (e.g., salmon and halibut) were greatly reduced, as were several species of large whale and pinnipeds (e.g., California sea lions and elephant seals). When the harvest of females reduced the fur seal population, other components of the ecosystem were changing concurrently so that carrying capacity for fur seals was reduced. The population size stabilized at or near carrying capacity in the late 1960s and early 1970s at about 1.3 million individuals (pup production about 326,000).

Entanglement in net debris, which began to increase in 1970 and peaked in 1975, caused a density independent mortality that reduced the population somewhat below carrying capacity. Using measures of average pup production on St. Paul Island for 1964–1976 (264,478) and 1980–1987 (180,715), we estimate that the present population is above 68 percent of the most recent (early 1970s) carrying capacity level. The population therefore is above the generally accepted level which produces MNPL, and does not qualify for classification as depleted under the terms of the NMPA.

NMFS has concluded, based on the same data, that the Pribilof Island population is a less than 60 percent of the carrying capacity observed during the 1940s–1950s. The commercial harvest of females during 1956–68 cannot be considered to have permanently reduced the carrying capacity of this environment. Using

ADF&G's logic, the current situation (800,000 population) could represent a second reduction in carrying capacity caused by debris entanglement and associated with coincident declines in Steller sea lions and seabirds. On the contrary, carrying capacity is not a sliding index of current population size.

ADF&G recommends against a depletion designation because "designating the population as depleted would needlessly limit the options available for managing fur seals, would affect management of other valuable marine resources, and could substantially impact the lives of Alaskans on the Pribilof Islands and elsewhere."

Another commenter questioned the assumption that the carrying capacity has probably not changed since the 1950s.

First and most obvious, the fishery resources—bottom fish, shellfish, finfish, and all species in between—have been the subject of all time high exploitation effort during the years since World War II. Fishermen have become more plentiful, more productive and more thorough about using the resources. Whole fisheries in the fur seal migratory area have come and gone during this period, such as king crab in the Pribilof area, and the shrimp fishery. Halibut in the Bering Sea have declined and returned in this period.

Based on his experience with the North Pacific Fishery Management Council, this commenter believes that reliable resource assessment in the Bering Sea is "a near impossibility" because of the existence of the unclaimed "donut hole" which raises doubts about the abundance of resources. He believes we must "address the Bering Sea as one ecosystem." He feels that the depletion designation "ought not to be made before the entire intent and purpose of NMPA is reexamined by the Congress this year."

The International Association of Fish and Wildlife Agencies (IAFWA) renewed its concern about the NMFS' "ill supported expedient to employ the Marine Mammal Protection Act in the absence of a Treaty extension for North Pacific Fur Seals." This subject was addressed in section (a)(5) above. IAFWA also endorsed ADF&G's comments and "embrace[s] the hypothesis that carrying capacity is dynamic and that the numbers and production of fur seals is a product of carrying capacity within the region."

The Alaska Factory Trawler Association is concerned about the impact of a depletion designation on commercial fishing. The Association renewed its previous comments in light of recent court decisions on Dall's

porpoise. This subject is discussed in section (b)(3) above. The Department of the Interior provided a list of publications on the Bering Sea ecosystem that were developed in association with outer continental shelf oil and gas development proposals.

Dr. Venrick, the senior author of the *Science* article, discussed above, commented that extrapolation of her results into the Bering Sea is "Completely unjustified." Regarding the possible effects of climate on fur seals, Dr. Venrick states:

The global connections between ocean and atmosphere are such that the changes observed in the Central Pacific may, in fact, be accompanied by climatological changes in the Bering Sea. However, the direction of this relationship and the relative timing of the changes in the two environments are totally unknown. It is quite possible that winter storminess in the Bering Sea decreased rather than increased, or that the change in the Bering Sea preceeded or followed the changes in the Central Pacific by several years.

NMFS had postulated that increased storminess could have affected fur seals in the Bering Sea and also throughout their range in the North Pacific Ocean. Female seals and juveniles of both sexes migrate through the Aleutian passes and along the coasts of Alaska, Canada, Washington, Oregon and California. NMFS did not intend to confine the consideration of a possible correlation between fur seal mortality and storm activity to the Bering Sea only, as has been assumed by this commenter.

Four other commenters also challenged the use of Venrick et al. (1987) to justify a reconsideration of the depletion designation. Greenpeace believes that the results "cannot be extrapolated to the Gulf of Alaska, the Bering Sea and coastal NEP [North Eastern Pacific] regions, where most northern fur seals of the Pribilof stock live and migrate" * * * Venrick and colleagues' maps, as well as other studies show clearly that temperature and winter storm trends behaved differently in the CNP [Central North Pacific], NEP coastal waters and Bering Sea, respectively."

Greenpeace argues against the assumption that storminess may affect carrying capacity for fur seals. They provide references to support conclusions that coastal sea surface temperatures increased and storminess decreased in the North Pacific, "SST of Gulf of Alaska and NEP coastal waters increased during the past 10-15 years (Tabata, 1983; Xiang and Payer, 1983; Mysak, 1986)" * * * Winter storminess has decreased along the NEP shelf south of 58 degrees N. (see Figure 3 in Venrick

et al. 1987) * * *. Greenpeace states that "the oceanographic and biological connections between the CNP and coastal NEP, Gulf of Alaska and Bering Sea do not exist in the way the Notice claims and therefore cannot be applied to northern fur seal population dynamics." Regarding the possible effect of winter storms on fur seal carrying capacity, Greenpeace argues "[w]inter storms, those shown by Venrick et al. (1987) to have increased in strength, do not affect most females and younger males, since they migrate south to areas where winter storminess has actually decreased in recent years" * * *. Greenpeace concludes that "no claim for a causal mechanism connecting abiotic factors to fur seal population dynamics can be made at this time."

Friends of Animals/Committee for Humane Legislation commented on this subject and concluded as follows:

The Venrick research focuses on an oligotrophic environment located above ocean areas of profound depth. The northern fur seals inhabit a highly productive environment in the relatively shallow waters above the continental shelf. These two ecosystems are very dissimilar and the findings made in one should not be applied to the ecological dynamics of another without very considerable caution and substantive scientific corroboration which, as yet, does not exist.

Friends of the Sea Otter commented that this "new" information "should simply confirm our inability to predict the future with any great measure of confidence and reaffirm our responsibility to manage as conservatively as possible." They further conclude:

We certainly hope this tortured analysis will be promptly put aside and the depletion designation finalized without further delay—not only for the sake of the fur seals themselves (as well as other species which could be jeopardized by such a dismal precedent), but also for the sake of maintaining the credibility of the United States' commitment to marine mammal protection at home and abroad.

The Humane Society of the United States (HSUS) submitted pleadings and exhibits previously filed in the civil action mentioned above. HSUS commented that this material supports HSUS's continuing position that "the Pribilof Island fur seal is a depleted population stock and that the decision to reopen the comment period was improper." Copies of all briefs filed in this case and exhibits are available for inspection during normal business hours in Room 803b, 1852 Connecticut Ave. NW., Washington, DC.

HSUS submitted as an exhibit the declaration of Dr. David M. Lavigne concerning the carrying capacity for North Pacific fur seals. Dr. Lavigne concluded that

Our knowledge of this species exceeds that of almost all other marine mammal populations. Nonetheless, the study of marine mammal populations is necessarily based on estimates, approximations and predictions, since the size and behavior of large wildlife populations, particularly those that spend a large part of their lives at sea, can never be determined with absolute precision. Within the limits of marine mammal biology, however, the conclusion that the Pribilof Island fur seal population is currently below 50 percent of its estimated carrying capacity and, thus, less than the population size necessary to produce maximum net productivity, is well supported by the available evidence.

And, finally, the Center for Environmental Education commented that

The supplementary information does not offer the kind of new evidence sufficient to justify the reversal of a long-standing scientific finding about how fur seals respond to their environment * * *. Hypotheses, as stated in the Supplementary Information, that sea surface temperatures, and food resource reductions are responsible for the mortality of young fur seals at sea appear to be so speculative that they are not considered viable subjects of research by seal scientists or the agency in setting its funding priorities.

Classification

The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This rule will not result in (a) an annual effect on the economy of \$100 million or more; (b)

a major increase in costs or prices; or (c) a significant adverse effect on the U.S. economy. This rule will have no economic effects except those nondiscretionarily mandated by statute. Consequently, the General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Additionally, this rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

A designation of depletion in this instance, which is similar to a listing action under section 4(a) of the ESA, is categorically excluded from the requirement to prepare an environmental assessment (EA) or an environmental impact statement (EIS) (NOAA Directives Manual 02-10 Environmental Review Procedures, 49 FR 29647, para. 5.c.(3)(h), implementing the National Environmental Policy Act of 1969 (NEPA)). A decision on the status of this population relative to its OSP is a biological determination. Once the population is found to be below OSP, it is, by definition, depleted. Thus, NMFS has no discretion to deviate from this biological determination on the basis of potential impacts on the human environment. Any regulations or major actions resulting from the depletion designation, however, would be subject to the requirement to prepare an EA or EIS. A 1985 EIS was prepared on the fur seal Convention which includes a complete review of the environment of the Pribilof Islands, and EAs were published in July 1985 and May 1986 to assess impacts of the subsistence taking of fur seals on the Pribilof Islands.

Copies of these NEPA documents are available from the information contact listed above.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 216

Administrative practices and procedure, Marine mammals, Penalties, Reporting and recordkeeping requirement.

Dated: May 12, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

Accordingly, 50 CFR Part 216, Subpart A is amended as follows:

PART 216—[AMENDED]

1. The authority citation for Part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 et seq.

2. Section 216.15 is revised to read as follows:

§ 216.15 Depleted species.

The following species or population stocks have been designated by the Assistant Administrator as depleted under the provisions of the Act.

(a) Hawaiian monk seal (*Monachus schauinslandi*).

(b) Bowhead whale (*Balaena mysticetus*).

(c) North Pacific fur seal (*Callorhinus ursinus*). Pribilof Island population.
[FR Doc. 88-11129 Filed 5-17-88; 8:45 am]

BILLING CODE 3510-22-M

LEADER.—**THE TREATY**

OF JAPAN.

BY

JOHN R. GREEN,

OF THE NEW YORK TIMES,

AND MEMBER OF THE

AMERICAN ASSOCIATION

FOR THE ADVANCEMENT

OF SCIENCE.

WITH A HISTORY

OF THE JAPANESE

PEOPLES,

AND A HISTORY

OF THE JAPANESE

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Wednesday
May 18, 1988

Part IX

Department of the Interior

Minerals Management Service

Gulf of Alaska/Cook Inlet, Lease Sale
114; Call for Information and
Nominations and Notice of Intent To
Prepare an Environmental Impact
Statement

Instructions on Call

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Gulf of Alaska/Cook Inlet
Lease Sale 114

Call for Information and Nominations

and

Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONSPurpose of Call

The purpose of the Call is to gather information for outer Continental Shelf (OCS) Lease Sale 114. This sale, located in the Gulf of Alaska and Cook Inlet Planning Areas, is tentatively scheduled for September 1990. Information and nominations on oil and gas leasing, exploration, and development and production within the Gulf of Alaska/Cook Inlet are sought from all interested parties. This initial information-gathering step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, as amended (43 U.S.C. 1331-1356), and regulations at 30 CFR 256. This Call does not indicate preliminary decision to lease in the area described below.

Description of Area

The area of Call is in the Gulf of Alaska Planning Area and Cook Inlet Planning Area off south-central Alaska.

The area available for nominations and comments consists of approximately 25,500 whole and partial blocks (about 139.4 million acres) and is outlined on the attached map. To assist in focusing on promising acreage, the Call map outlines the Minerals Management Service (MMS) interpretation of the area of hydrocarbon potential. Although primary consideration will be given to those blocks included in the area of hydrocarbon potential, respondents may nominate and are asked to comment on any acreage within the entire Call area. A larger scale map of the Gulf of Alaska/Cook Inlet Planning Areas showing boundaries on a block-by-block basis and a complete list of official Protraction Diagrams (OPD's) are available from the Records Manager, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508-4302, telephone (907) 261-4621. The OPD's may be purchased from the Records Manager for \$2.00 each.

Respondents are requested to nominate blocks within the Call area that they would like included in OCS Lease Sale 114. Nominations must be depicted on the larger scale Call map by outlining the area(s) of interest along block lines. Respondents may also submit a list of whole and partial blocks nominated (by OPD designations) to facilitate correct interpretation of their Call map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are proprietary information.

Respondents are also asked to rank areas nominated according to priority of their interest (e.g., priority 1 [high], 2 [medium], or 3 [low]). Areas nominated which do not indicate priorities will be considered priority 3. Respondents are encouraged to be specific in indicating areas or blocks by priority, because blanket priorities on large areas are not useful in the analysis of industry interest.

The telephone number and name of a person to contact in the respondent's organization for additional information should be included in the response.

Comments are sought from all interested parties about particular geologic, environmental, biological, archaeological, or socioeconomic conditions, conflicts, or other information that might bear upon potential leasing and development in the Call area. Comments also are sought on potential conflicts that may result from the proposed sale and future OCS oil and gas activities with approved local coastal management plans (OPP's). If possible, these comments should identify specific OPP policies of concern, the nature of the conflict foreseen, and steps that MMS could take to avoid or mitigate the potential conflict. Comments may be in terms of either broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the large scale Call map.

Nominations and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed Gulf of Alaska/Cook Inlet Lease Sale 114," or "Comments on the Call for Information and Nominations for Proposed Gulf of Alaska/Cook Inlet Lease Sale 114," as appropriate. The original Call map with indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the address stated under Description of Area. Copies of the Call map showing indications of interest and any comments are to be sent to the Chief, Offshore Leasing Management Division, Department of the Interior, Minerals Management Service, Room 4230, 18th and C Streets, NW, Washington, DC 20240.

Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to refine the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of

environmental conditions in and near the call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this call is to use the comments to initiate the scoping process for the Environmental Impact Statement (EIS) and analyze alternatives to the proposed action. The Notice of Intent to Prepare an EIS, including a description of the scoping process, is located later in this document. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore operations. Fifth, comments may be used to point out potential conflicts between offshore oil and gas activities and the Coastal Management Program.

Existing Information

An extensive environmental studies program has been underway in this area since 1975. The emphasis, including continuing studies, has been on geologic mapping, environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports and information for ordering copies may be obtained from the Records Manager, Alaska OCS Region, at the address stated under Description of Area, or by telephone at (907) 261-4621. The reports may be ordered directly from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 or by calling (703) 487-4650.

In addition, a program status report for continuing studies in this area may be obtained from the Chief, Environmental Studies Section, Alaska OCS Region, at the address stated under Description of Area or by telephone at (907) 261-4620.

Summary Reports and Indices and technical and geologic reports are available for review at the MMS Alaska OCS Region (see address under Description of Area). Copies of the Alaska OCS Regional Summary Reports may also be obtained from the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, VA 22180.

Tentative Schedule

Final delineation of the area for possible leasing will be made at a later date in compliance with applicable laws including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the OCS Lands Act, as amended, and with established departmental procedures.

Tentative milestones that will precede this sale, proposed for September 1990, are:

Milestones	Dates
Comments due on the call	June 1988
Scoping Comments Due	June 1988
Area Identification	August 1988
Draft EIS Published	September 1989
Hearings on Draft EIS Held	October 1989
Final EIS Published	February 1990
Availability of Proposed Notice of Sale Published	April 1990
Governor's Comments Due on Proposed Notice	June 1990
Final Notice of Sale Published	August 1990
Sale	September 1990

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

Purpose of Notice of Intent

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended, the MMS is announcing its intent to prepare an EIS regarding the oil and gas leasing proposal known as Sale 114 in the Gulf of Alaska/Cook Inlet off Alaska. The Notice of Intent also serves to announce the scoping process that will be followed for this EIS. Throughout the scoping process, Federal, State, and local governments and other interested parties aid the MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the area defined in the Area Identification procedure as the proposed area of the Federal action. Alternatives to the proposal which may be considered are to delay the sale, cancel the sale, or modify the sale.

Instructions on Notice of Intent

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues which should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the address stated under Description of Area above. Comments should be enclosed in an envelope labeled "Comments on the Notice of Intent to Prepare an EIS on the proposed Gulf of Alaska/Cook Inlet Lease Sale 114." Comments are due no later than 45 days from publication of this Notice. Also, scoping meetings will be held in appropriate locations for the purpose of obtaining additional comments and information regarding the scope of the EIS. The times and locations of these scoping meetings will be announced at a future date in the Federal Register and by press release.

Wm. D. Bettner

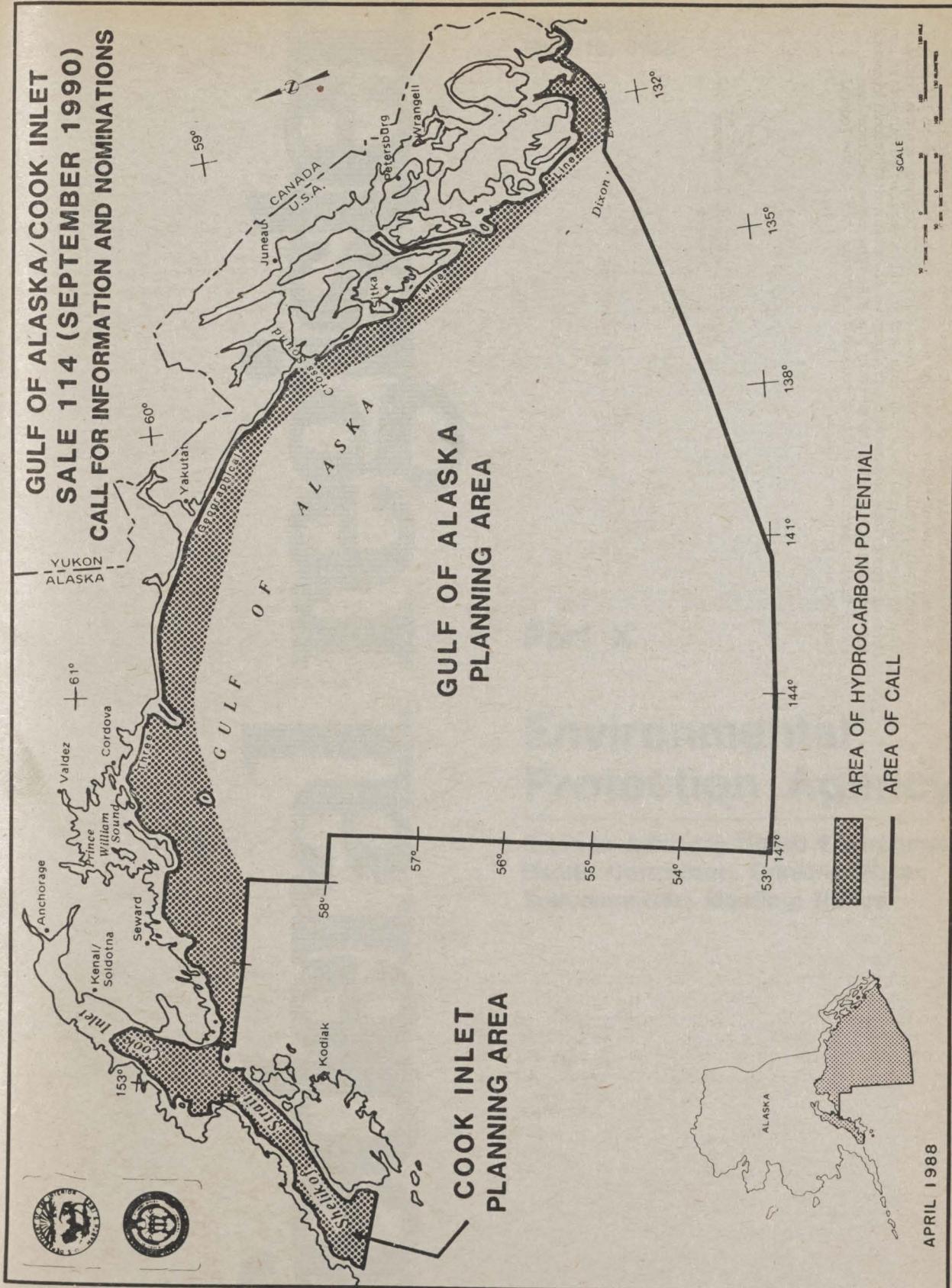
Director, Minerals Management Service
Wm. D. Bettnerberg

Approved:

J. Steven Briles

Assistant Secretary - Land and Minerals Management
J. Steven Briles
MAY 13 1988

Date



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U.S. Environmental Protection Agency
Science Advisory Board Environmental Health Committee, Drinking Water Subcommittee; Meeting; Notice

Wednesday
May 18, 1988

Part X

Environmental Protection Agency

Science Advisory Board Environmental Health Committee, Drinking Water Subcommittee; Meeting; Notice

Part X

Political-Amenities

Society's Availability Based on Evolutionary
Health Committee Guidelines
Supplementary Materials Index

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL 3383-1]

**Science Advisory Board
Environmental Health Committee,
Drinking Water Subcommittee;
Meeting**

Under Public Law 92-463, notice is hereby given that a two-day meeting of the Drinking Water Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on June 2-3, 1988 in Room 130-138 of the Andrew Breidenbach Environmental Research Center of the U.S. Environmental Protection Agency, 26 Martin Luther King Drive, Cincinnati, Ohio 45269. This meeting will start at 8:30 a.m. on June 2nd and will adjourn no later than 4 p.m. on June 3rd.

The purpose of this meeting will be in five areas. The first area is analytical methodology where methods development in the areas of disinfection by-products and pesticides will be discussed as well as a laboratory certification issue. In the second area, treatment technology, methodology involving lead and disinfection by-products will be discussed as well as the issue of how much field testing should be required. The third area will be the review of specific issues concerning the drinking water health criteria document for Arsenic. The fourth area involves specific issues concerning the draft of the proposed regulations for Phase II drinking water contaminants. The fifth area involves the proposed sampling scheme for determining the concentrations of lead in drinking water.

Documentation for this meeting is available from the Office of Drinking Water.

Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothorn, Executive Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC 20460 by May 26, 1988. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Donald Barnes,
Director, Science Advisory Board.

Dated: May 11, 1988.

[FR Doc. 88-11291 Filed 5-18-88; 11:11 am]
BILLING CODE 6560-50-M

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S. 2273/Pub. L. 100-318

To provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe. (May 13, 1988; 102 Stat. 469; 2 pages)
Price: \$1.00

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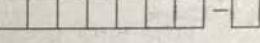
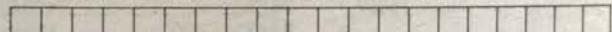
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